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RECORD, CASE No. 13,336.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1892.

TERM No., 21.

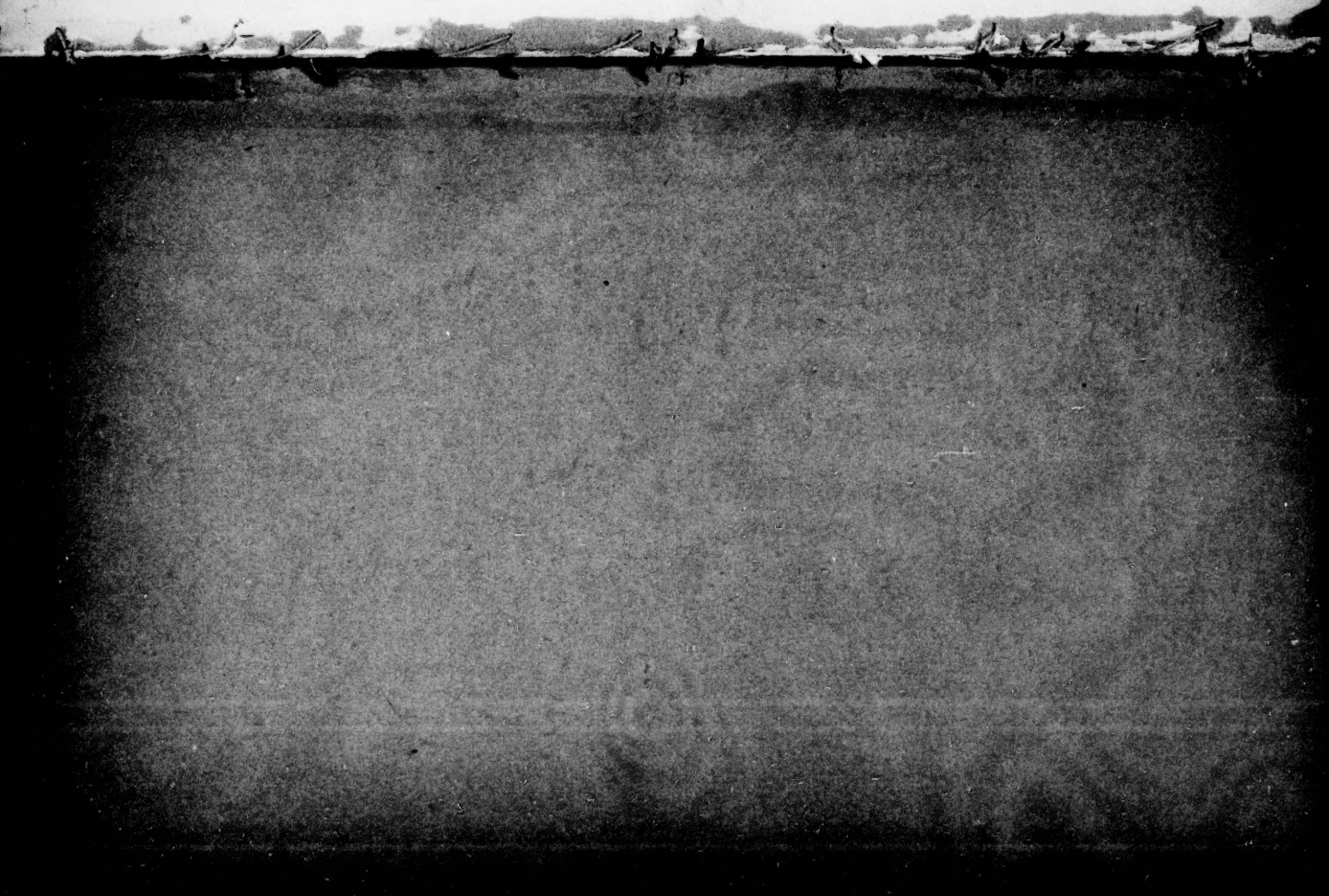
ROBERT A. BALLOCH, APPELLANT,

vs.

WILLIAM R. HOOPER AND THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED OCTOBER 15, 1888.



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1 In the Supreme Court, District of Columbia, this 25th Day of November, A. D. 1882.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER and THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY.
No. —, Eq. Doc. 22.

Filed December 7, 1882.—R. J. Meigs.

To the supreme court of the District of Columbia, holding an equity court for said District:

The complainant complains as follows:

First. That he is a resident of the city of Washington and District of Columbia and brings this suit in his own right.

Second. That the defendant William R. Hooper is also a resident of said city and District and is sued in his own right and as the agent of the Massachusetts Mutual Life Insurance Company.

Third. That defendant The Massachusetts Mutual Life Insurance Company is a duly incorporated body under the laws of the State of Massachusetts, having an office, agent, and place of business in the city of Washington and District of Columbia, and is sued in its own right.

2 Fourth. That heretofore, to wit, on or about the 4th day of June, A. D. 1879, the complainant being engaged in the construction of a row of fourteen (14) brick houses on 16th St. between S and Swan Sts. N. W., Washington city, D. C., and also of a row of six (6) houses on S St. between 16th and 17th Sts. N. W., all of which said houses being located in square numbered one hundred and seventy-seven (177), Washington city, D. C., and for the purpose of securing sufficient funds to complete said houses he applied to the defendants for a loan of sixteen thousand ($16,000) dollars; that on or about said 4th day of June, A. D. 1879, said defendants made said loan to the complainant, taking his promissory notes therefor, secured by deeds of trust, in which said deeds of trust defendant William R. Hooper, who was the agent of defendant The Massachusetts Mutual Life Insurance Company, was trustee, on eight of said houses and lots, which said houses and lots were known and described as lots numbered ninety-(92) two to ninety-(99) nine, both inclusive, in R. A. Balloch's recorded subdivision of part of square numbered one hundred and seventy-(177) seven; that the agreement between the plaintiff and the defendants as to the delivery to him of the money so borrowed as aforesaid was as follows, to wit: one-half of said loan, to wit, $8,000, was to be paid to him when the notes and deeds of trust were delivered to the defendant, and out of the eight thousand dollars remaining in the hands of the defendants they, the defendants, were to immediately pay off a prior lien upon said property held by J. Bradley Adams, and the remainder of said funds were to be turned over to the complainant as he might need them in the prosecution of said work.

But the complainant avers and charges that the said defendants, in direct violation of their said contract and notwithstanding the fact that they held the complainant's notes for said sum of sixteen thousand ($16,000) dollars, secured by deeds of trust as aforesaid, did not pay or deliver to him one-half of said loan at the time agreed upon, nor did they settle or pay the claim of the said
3 J. Bradley Adams, as they had agreed to, nor did they pay over to the complainant the remainder of said loans as he needed it in the prosecution of his said work; but, on the contrary, they fraudulently and corruptly withheld said money or a great portion thereof, seriously hindering, embarrassing, and disarranging the affairs of the complainant, thereby rendering it impossible for him to complete his said improvements.

Fifth. That thereafter, to wit, on or about the 11th day of October, A. D. 1879, the complainant made a second application to said defendants for a loan of ten thousand and two hundred ($10,200) dollars, which said loan was granted to the complainant, and for which said amount he made, executed, and delivered to the defendants his certain promissory notes for said sum, payable in three years after date, with interest at the rate of 8 per cent. per annum; that to secure the payment of said notes he made, executed, and delivered to the defendants deeds of trust upon lots numbered eighteen (18) to twenty- (23) three, both inclusive, in Adams' recorded subdivision of part of square numbered one hundred and seventy- (177) seven, Washington city, D. C., in which said deeds of trust defendant William R. Hooper, who was the agent of defendant The Massachusetts Mutual Life Insurance Company, was made trustee; that said loan was made upon the same terms and conditions as the first loan, to wit, one-half of said ten thousand and two hundred dollars was to be paid to the complainant at the time he delivered his notes and deeds of trust hereinbefore described to the defendant, and out of the other five thousand and one hundred dollars remaining in the hands of the defendants the said defendants were to immediately pay off the claim of J. Bradley Adams resting upon the property described in said trusts, and the balance was to be paid to the complainant as he might need it in the prosecution of his said improvements.

But the complainant avers and charges that the said defendants, in direct violation of their said contract and agreement and
4 notwithstanding the fact that they held the complainant's notes for said sum of ten thousand and two hundred dollars, secured by deeds of trusts as aforesaid, yet they did not pay over or deliver to him one-half of said loan, as agreed upon, nor did they settle and pay the claim of the said J. Bradley Adams, as they had agreed to do, nor did they pay over to the complainant the remainder of said loan as he needed it in the prosecution of his said work and improvements; but, on the contrary, they fraudulently and corruptly withheld a great portion of said money, seriously hindering, impairing, and embarrassing the complainant in the prosecution of his said work, and by corruptly and wrongfully withholding said funds

rendered it impossible for the complainant to complete his said work.

Sixth. That thereafter, to wit, on or about the 17th day of February, A. D. 1880, the complainant made an application to the defendants for a loan of nine thousand ($9,000) dollars, which said loan and application was granted; that the complainant gave the defendants his certain promissory notes for said sum of nine thousand dollars, payable in — years after date, with interest at the rate of 8 per cent. per annum; that to secure the payment of said notes he made, executed, and delivered to the defendants deeds of trust upon lots numbered eighty-nine (89), ninety (90), ninety-one (91), and one hundred (100), in R. A. Balloch's recorded subdivision of part of square numbered one hundred and seventy-seven (177), Washington, city, D. C., in which said deeds of trust defendant William R. Hooper, who was the agent of defendant The Massachusetts Mutual Life Insurance Company, was trustee; that said loan was made upon the same terms and conditions as the two preceding loans had been, to wit, one-half of said nine thousand dollars was to be paid in cash at the time the notes and deeds of trust were executed and delivered, and out of the remaining four thousand and five hundred ($4,500) dollars the said defendants were to immediately pay off the claim of J. Bradley Adams resting upon said lots, and the balance was to be paid to the complainant as he might need it in the prosecution of his improvements;
5 but the complainant avers and charges that the said defendants, in direct violation of their said contract and notwithstanding the fact that they held the complainant's notes for said sum of nine thousand dollars, secured by deeds of trust as aforesaid, yet they did not pay over or deliver to him one-half of said loan, as they had agreed to do, nor did they settle and pay the claim of the said J. Bradley Adams, as they had agreed, nor did they pay over to the complainant the remainder of said loan as he needed it in the prosecution of his said work and improvements; but, on the contrary, they fraudulently and corruptly withheld a great portion of said money, thereby embarrassing the complainant in the prosecution of his said work, and by corruptly and wrongfully withholding said funds rendered it impossible for the complainant to complete his said work.

Seventh. That by reason of said defendants' improper conduct in withholding from him the money due to him as aforesaid, and the further fact that the money paid to him was paid in such small and trifling sums and after so much and oft-repeated solicitations as to greatly cripple the complainant in the prosecution of his said work, and the further fact that, including all moneys paid to the complainant by the defendants, and also all money paid to all other persons upon his orders, and also all money paid to the said J. Bradley Adams by the defendants, all of which moneys and payments aggregating the total sum of only $14,725.15, a sum greatly inadequate to meet the demands and requirements of said improvements, and that thereafter, to wit, on or about the 25th day of February, A. D. 1880, the said defendants having in their possession

twenty thousand four hundred and seventy-four dollars and eighty-five ($20,474.85) cents belonging to the complainant, they utterly refused to pay the same to the complainant or any part thereof, notwithstanding their agreement, as hereinbefore recited, to pay to him all of said money in the manner recited and as he might need it in the prosecution of his said work, and notwithstanding the fact that it was well known to said defendants that the complain-
6 ant did then and had for weeks previous needed said funds in the prosecution of his said work and was then and had been for some time seriously embarrassed on account of the failure and refusal of the defendants to pay to him said money as they had agreed to do.

Eighth. That while the complainant was so embarrassed, and while his said embarrassment and the reason thereof was fully known to and understood by the defendants, they, the said defendants, proposed to the complainant that if he would convey said property and also lots numbered 80 to 86, both inclusive, in R. A. Balloch's recorded subdivision of square 177, unimproved grounds, upon which they held no claim, to defendant William R. Hooper, who was the trustee in the deeds of trust given by the complainant to secure the loans made by defendant The Massachusetts Mutual Life Insurance Company to him, and who was also the agent of the said defendant, the insurance company, they, the said defendants, would immediately finish all of said houses out of the funds remaining in their hands belonging to the complainant, using so much of said funds as might be necessary to secure the proper and judicious completion of said improvements, and the remainder of said funds to be turned over to the complainant, and that after said houses should be completed they, the said defendants, would sell them for the highest and best price attainable, and upon the most favorable terms and to the greatest possible advantage, and that whatever price, sum, or amount that said houses should bring in excess of the amount of money paid to the complainant on account of the said loans hereinbefore recited and the amount actually and necessarily expended in the completion of said houses should be divided between the complainant and the defendants in the manner following, to wit, seventy-five per cent. or three-fourths of said sum should go to the complainant and twenty-five per cent. or one-fourth thereof should go to the defendants.

Ninth. That in view of the failure and refusal of the defendants to pay over to him the money due to him as aforesaid, and his inability to complete said houses without the funds of
7 his held by the defendants or without funds derived from some other source, and because of his inability to get any further loans on said property because of the existence of the trusts held by the defendants, and in view of these embarrassments, caused and created by the corrupt, improper, and unlawful conduct of the defendants, the complainant was compelled to and did accept said offer of said defendants, so made as aforesaid, and in pursuance thereof and by reason of the circumstance aforesaid did, on or about the 25th day of February, A. D. 1880, make, execute, and deliver

to said defendant, William R. Hooper, who was then the trustee in the deeds of trust heretofore referred to and also the agent of defendant The Massachusetts Mutual Life Insurance Company, a deed in fee of all of said property, and also lots numbered 80 to 86, both inclusive, in R. A. Balloch's recorded subdivision, parts of square No. 177, upon the terms, conditions, and for the purposes hereinbefore stated and for no other.

Tenth. That notwithstanding the agreement of the defendants, as aforesaid, that they would immediately after receiving said deed to said property from the complainant proceed with and complete all of said houses and improvements, yet said defendants, after obtaining the title to said property as aforesaid, did not, as they had agreed to do, proceed to complete said improvements, but permitted them to stand for a long time, to wit, for the period of about two years, without going on with said work or complying with their said agreement or completing the same; but that heretofore and before the commencement of this suit the said defendants did finish (or cause to be finished) and completed all of said houses and improvements.

Eleventh. Your complainant is now reliably informed, believes, and charges that all of said houses have been fully finished and completed, and that most of them, if not all of them, have been sold; that the defendants have failed and refused to give to the complainant a statement or account of their said transactions, or any statement whatever, showing the cost of finishing said
8 houses or the balance or unexpended funds remaining in the hands of the defendants belonging to the complainant, or the houses sold, or the terms or prices upon and for which they have been sold, or the number sold, or to whom sold, or the amount due to the complainant on account of such sales, or any other information relating thereto.

Twelfth. Your complainant further avers and says that, from the best information attainable by him and his knowledge of the cost of completing said houses and the prices for which they have been sold, there is now or ought to be (if all of said houses have been sold) in the hands of the defendants belonging to the complainant about forty thousand dollars.

Thirteenth. Your complainant further avers and charges that the defendants wilfully, corruptly, and fraudulently, and in direct violation of their said contract and agreement, now seek to so conceal and cover up their said sales and transactions in relation to said property as to make it difficult if not impossible for your complainant to ascertain the amount which he is lawfully entitled to receive.

Fourteenth. Your complainant further avers and charges that the said defendants have corruptly and unlawfully conspired together to cheat and defraud the complainant out of all of his said interest in said property, amounting to about forty thousand dollars.

Wherefore the complainant prays as follows, to wit:

Prayers.

First. That the said defendants be required to file an account in this cause showing the amount of money paid to the complainant on account of the loans referred to in the bill of complaint; also the amount paid to other persons upon his orders, and the time of such payments; the amount paid to J. Bradley Adams, and the dates of such payments; that they may also be required to file an itemized account showing the cost of finishing each and all of the houses conveyed to defendant William R. Hooper by the complain-
9 ant; also showing what sales of said houses and lots have been made, to whom and when made, and at what price each and all of said sales have been made, and upon what cash payments and terms.

Second. That the defendants, William R. Hooper and The Massachusetts Mutual Life Insurance Company, their servants and agents, may be restrained by order and injunction of this court from selling or disposing of any and all of said houses not heretofore sold and disposed of, and from collecting or receiving the rents, issues, and profits of said property.

Third. That a receiver be appointed to immediately take possession of such of said houses and property described in the bill of complaint as may not have been sold and conveyed, and to collect the rents, issues, and profits thereof and hold them subject to the order of this court.

Fourth. That said cause may be referred to the auditor or a special auditor of this court, who shall be directed to examine such witnesses, books, papers, and accounts touching the subjects of complaint in the bill as may be necessary, and make a report to this court containing a statement or account showing the amount due to the complainant by the defendants.

Fifth. That the defendants may be decreed to pay to the complainant the amount found due to him within a reasonable time, and that said decree may be declared to be a lien upon such of the houses and lots described in this bill of complaint as may not yet have been sold, and that in default of the payment thereof some suitable person may be appointed by this honorable court a trustee to sell said property or so much thereof as may be necessary to be sold, and the proceeds applied to the satisfaction of such decree, and in case said property shall not be sufficient to satisfy said decree, then the plaintiff shall have execution for such unsatisfied balance as upon judgment at law.

Sixth. That the plaintiff may have such further or other relief in the premises as the nature of the case may require.

Seventh. To which end the complainant prays for process against the defendants, William R. Hooper and "The Massa-
10 chusetts Mutual Life Insurance Company," requiring them to appear and answer the exigency of this bill in accordance with the rules and practice of this court.

The defendants to this bill of complaint are William R. Hooper and "The Massachusetts Mutual Life Insurance Company."

ROB'T A. BALLOCH.

S. S. HENKLE,
H. B. MOULTON,
Solicitors for Complainant.

DISTRICT OF COLUMBIA, *ss:*

Personally appeared Robert A. Balloch, who, being sworn in due form of law, deposes and says that he is the complainant in the above-entitled cause; that he has heard read the annexed bill by him subscribed and knows the contents thereof, and that the facts therein stated of his own knowledge are true, and those stated upon information and belief he believes to be true.

ROB'T A. BALLOCH.

Subscribed and sworn to before me this 7th day of December, A. D. 1882.

C. A. NEALE,
[SEAL.] *Notary Public.*

11 In the Supreme Court of the District of Columbia, Dec. 7th, 1882.

ROBERT A. BALLOCH, Complainant, *against* WM. R. HOOPER *et al.*, Defendants. } No. 8381, Equity Docket 22.

The President of the United States to William R. Hooper, The Massachusetts Mutual Life Insurance Company:

You are hereby commanded to appear in this court at its special term occurring twenty days after service of this subpœna and answer the exigency of the original bill.

Witness D. K. Cartter, chief justice.

R. J. MEIGS, *Clerk, &c.*,
[SEAL.] By R. J. MEIGS, JR., *Ass't Clerk.*

Summoned the Mass. Mu. Life Ins. Co. by service on Francis H. Smith, agent, and Wm. R. Hooper Dec'r 8th, 1882.

CLAYTON McMICHAEL,
U. S. Marshall.

12 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH *vs.* WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

On motion of the defendants, by Edwards & Barnard, their solicitors, it is this 6th day of February, 1883, ordered that the defendants have twenty days further time from this date in which to file their answers to the bill herein.

CHARLES P. JAMES, *Justice, &c.*

I consent to the foregoing order.

H. B. MOULTON,
Sol. for Pl'f.

Filed Feb'y 6th, 1883.

R. J. MEIGS, *Clerk.*

13 In the Supreme Court, District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER and THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY. } No. 8381, Equity.

Filed February 26, 1883. R. J. Meigs, clerk.

The Separate Answer of the Defendant The Massachusetts Mutual Life Insurance Company.

For answer to the bill herein the said defendant says it admits the facts stated in the first, second, and third paragraphs thereof.

In answer to the fourth paragraph this defendant says it is a body corporate under the laws of the State of Massachusetts and is authorized to do business elsewhere than in said State, and that a portion of its business is the loaning of money upon real-estate security; that prior to the 4th day of June, 1879, this defendant had loaned money to different persons in the District of Columbia, and, among others, to one John B. Archer, on real estate situate at the corner of Massachusetts avenue and Second street northwest, in Washington city. Two houses on which the said loans were secured by deeds of trust were purchased by this defendant on foreclosures of the said trusts and were held by it on the said 4th day of June, 1879; that at this last-mentioned date the complainant in this suit made application to this defendant, through its agent, the defendant Hooper, for the loan of $16,000, and on examination of the property offered as security, and after its appraisement
14 by A. L. Sturtevant, the agent of the company for that purpose, and on being assured that the title was correct, and, further, in consideration that the said complainant should purchase of this defendant the two houses aforesaid, known as the Archer houses, at the prices agreed upon between them, he to give his note for a portion of the purchase-money therefor and to pay out of the loan applied for $800 in cash, this defendant agreed to loan said Balloch the said sum of $16,000; that at the same time the said Balloch was indebted to this defendant in a large sum of money previously loaned to him and secured by deeds of trust on property situate on Q street near 13th street northwest, in said city, interest on which loan was at said time due to this defendant to the amount of $581.50; that therefore in making said loan it was agreed and understood between the complainant and this defendant that the said sum of $581.50 for interest then due on the previous loan and the further sum of $800, cash on the purchase of the two Archer

houses aforesaid, should be retained by the defendant from the said $16,000 so to be advanced, and the said sums were retained; the remainder of the said $16,000 was paid by this defendant to said complainant, $7,418.50 by draft to the order of said complainant on June 4, 1879; $7,200 by draft on the 9th of July, 1879, to the complainant's order, which said drafts were forwarded to, received and indorsed by the said complainant and paid to his order; and it denies all allegations in said paragraph imputing fraudulent or corrupt conduct to this defendant, and denies that it in any way withheld moneys after the time agreed upon for payment between the complainant and this defendant, or that it in any way embarrassed the complainant in the conduct of his business, as alleged.

This defendant says, in answer to the fifth paragraph, that on or about the 17th day of October, 1879, on the further application of said complainant, and on the assurance that the title to the property offered as security therefor was correct, and on the appraisement by Mr. A. L. Sturtevant, this defendant agreed to loan said complainant the further sum of $10,200 with the understanding and agreement that out of this sum should be retained by this defendant $416.66, the additional cash payment agreed upon for the purchase of the said Archer houses on Massachusetts avenue near Second street northeast, and also to retain $578.26 due this defendant on or about July 1, 1879, on account of interest on previous loans and indebtedness of said Balloch to this defendant, and also $646.42, interest due November 1, 1879, from said Balloch; that this defendant did retain said several sums and forwarded the balance of said loan to said Balloch in two drafts to his order, one on or about the 17th day of October, 1879, for $4,105.08, and the other on or about the 24th day of December, 1879, for $4,453.58. This defendant denied all allegations in said fifth paragraph which impute fraudulent or corrupt conduct to it, and denies that it withheld any moneys due to the complainant on account of said loan after the time agreed upon for payment thereof, and denies that it in any way embarrassed the complainant in his business, as alleged.

On or about the 17th day of February, 1880, the said complainant made a further application, as stated in the sixth paragraph, for the loan of $9,000, offering certain security therefor, which on appraisement and assurance of title, as in other cases, this defendant agreed to loan to said complainant in consideration of the said complainant purchasing another house then held by this defendant on Sixth street, in said city, known as the "Howard" house, at a price agreed upon, $750 of the said purchase-money to be cash and to be retained from the said $9,000 loan, and $1,412.35, interest due to this defendant from said Balloch on account of his indebtedness on or about May 1, 1880, was also to be retained out of said loan; that these sums were retained from the said $9,000 loan, and $6,750 thereof was forwarded by draft to the order of said Balloch on or about February 17, 1880, and the residue, $87.65 thereof, was forwarded to him in the same way on or about April 15, 1880. It

denies all allegations imputing to it fraudulent and corrupt
16 conduct contained in the sixth paragraph, and denies withholding money from the said complainant after the time at which the said money was to be paid to him, and denies in any way embarrassing him in his said business, as alleged.

That this defendant denies all allegations of improper conduct on its part charged in the seventh paragraph in withholding moneys from the complainant, and avers, as stated in the previous paragraphs herein, that all the moneys which this defendant agreed to loan to said complainant were paid to him by draft as aforesaid, at the time aforesaid, or retained as aforesaid by his express agreement, and that this defendant did not in any way cripple or embarrass the said complainant in his business, as charged. This defendant denies the allegations therein contained that it had or retained on or about Februry 25, 1880, $20,474.85, as therein alleged, and says that the only sum then held by this defendant was the said sum of $87.65, which was not due to the complainant till on or about April 15, 1880, and which was then forwarded to him as aforesaid.

This defendant denies that it ever proposed to the complainant to have the property described in the bill conveyed to the defendant Hooper, and denies that it had any knowledge of said conveyance so alleged to have been made until a long time subsequent thereto. It denies that it ever agreed to finish the houses on the property described out of funds remaining in its hands belonging to complainant and to turn over the balance thereof to him, as alleged, and it denies that it ever agreed in any way after the completion of said houses to sell the same and give to the complainant seventy-five (75) per cent. of the profits or surplus proceeds thereof after deducting the moneys paid out to said complainant and to complete said houses and sell them, as alleged.

This defendant had no knowledge of the conveyance to the defendant Hooper of the property as described and alleged in the ninth paragraph until a long time thereafter, to wit, until about the 1st day of October, 1881.

This defendant never agreed with the complainant to com-
17 plete the improvements on said ground immediately or at any time; but it admits that some time after it ascertained the condition of said property, and that said Balloch had conveyed it to the defendant Hooper, this defendant consented to and did advance to said Hooper large sums of money for the completion of the houses on said property, taking a note from the said Hooper representing the cash loaned to said Balloch and the advances made and to be thereafter made to said Hooper to complete the said houses, the said note being for the sum of $71,000, dated on the 1st day of November, 1881, and secured by a deed of trust on all said property, said deed of trust being recorded in Liber 992, folio 332, one of the land records of the District of Columbia, and the same is hereby referred to and made part of this answer.

This defendant, in answer to the eleventh paragraph, says that it believes the houses have all been completed, and that contracts for

sale of a portion thereof have been made, conveyances to be given when the purchasers pay respectively the sum of $500 each thereon, none of which payments have yet been made, except that the said house on Sixth street, known as the "Howard" house, purchased by said Balloch as aforesaid and conveyed to said Hooper with the other property described in said bill, has since been sold at and for the sum of $3,500 and conveyed by deed in Liber 1005, folio 146, in said District, the same being lot H in W. W. Corcoran's recorded subdivision of lots one (1) and thirty-seven (37) to fifty (50), inclusive, of a former subdivision of square four hundred and forty-six (446), and except lot 100 and part of 99 in said Balloch's subdivision of square 177 for $7,500 and conveyed by deed in Liber 1010, folio 254, in said District.

It denies that there is in this defendant's hands any money whatever justly due to or going to the complainant, and it says that if the said houses were sold at the present market value therefor the proceeds thereof would not be any more than sufficient to pay to this defendant the moneys now secured by the deeds of trust aforesaid upon the said property, as it is informed and believes.

18 It denies the charges contained in the thirteenth paragraph that it has wilfully, corruptly, and fraudulently acted in this matter, and denies that it has in any manner attempted to conceal sales of said property so as to prevent complainant from finding out what he claims to be due him therefrom, and it again emphatically denies that there is anything due to said complainant from this defendant on account of the transactions aforesaid.

In answer to the fourteenth paragraph this defendant denies that it has conspired with the defendant Hooper or with any one else to cheat and defraud the complainant out of any interest in said property; and it denies that he has had any interest therein since the conveyance voluntarily made by him, as this defendant is informed, to the defendant Hooper on or about the 25th day of February, 1880. This defendant files herewith a copy of its account with said Balloch, marked Defendants' Exhibit No. 1, and makes the same part of this answer.

And, having fully answered, it asks to be hence dismissed, with costs, &c.

THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY,
[SEAL.] By E. W. BOND, *Its President.*

EDWARDS & BARNARD,
Solicitors for Defendant.

STATE OF MASSACHUSETTS, }
County of Hampden, } *ss:*

E. W. Bond, president of the defendant The Massachusetts Mutual Life Insurance Company, being duly sworn, says that he has read the above answer of said company by him subscribed and knows the contents thereof, and that the facts therein stated as of

the knowledge of the defendant are true, and those facts
19 therein stated on information and belief he believes to be true; that he has signed the said answer and makes this affidavit and affixes the corporate seal of said company as its executive officer.

[SEAL.] E. W. BOND,
President of the Mass. Mutual Life Ins. Co.

Subscribed and sworn to before me this 24th day of February, 1883.

[SEAL.] JOHN A. HALL,
Notary Public.

DEFENDANTS' EXHIBIT No. 1.

Robert A. Balloch—Statement of Loan Account.

		Dr.	Cr.
1879.			
June 4.	By 8 mortgage notes of $2,000 each		$16,000 00
	To interest due January 1, 1879, on five notes	$581 50	
	To draft on account	7,418 50	
July 9.	To payment on two Archer houses sold to him, Balloch	800 00	
	To draft for balance of $16,000 loan	7,200 00	
		$16,000 00	$16,000 00
1879.			
Oct. 17.	By 6 mortgage notes of $1,700 each		$10,200 00
	To balance of payments on Archer houses sold to Balloch	$416 66	
	To interest due July 1, 1879, on 6 of Balloch notes	578 26	
	To drafts on account	4,105 08	
20			
Dec. 24.	To interest due Nov. 1, 1879, on 16 Balloch notes,	646 42	
Dec. 24.	To draft for balance of $10,200 loan	4,453 58	
		$10,200 00	$10,200 00
1880.			
Feb. 17.	By 1 mortgage note		$3,000 00
	By 3 " " of $2,000 each		6,000 00
	To payment on Howard house sold to Balloch	$750 00	
	To drafts on account	6,750 00	
April 15.	To interest due May 1, 1880, on 21 notes	1,412 35	
	To draft and check for balance of $9,000 loans	87 65	
		$9,000 00	$9,000 00

In the Supreme Court, District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

Filed February 29, 1883. R. J. Meigs, clerk.

The Separate Answer of the Defendant William R. Hooper to the Bill.

For answer to the first, second, and third paragraphs of the bill this defendant admits that the facts therein stated are true.

21 In answer to the fourth paragraph he says that the complainant did make application to him as agent of the defendant The Massachusetts Mutual Life Insurance Company on or about the fourth day of June, 1879; that the complainant had before that time borrowed of the said insurance company other moneys and secured the same by a deed of trust or deeds of trust on property on Q street near 13th street northwest, in Washington city; that shortly before the said fourth day of June, 1879, the complainant's agent, Seth A. Terry, came to this defendant and represented to him that the complainant was building houses, as stated in said paragraph, and went with this defendant and pointed out the said houses then in process of erection. This defendant had the title examined, but the abstract procured did not contain a plat of the lots in said subdivision, but when the loan was accepted and deed of trust made said Terry brought and exhibited to this defendant what purported to be a plat of the subdivision, on which plat or paper purporting to be a copy of the plat of the said subdivision by R. A. Balloch of lots in square one hundred and seventy-seven (177) the lots were erroneously numbered, the numbers therein beginning with lot numbered eighty-eight (88), at the southeast corner of said subdivision, being at the corner of 16th and S streets, in said city, and the numbers running thence north consecutively to one hundred (100), inclusive, the last lot north, at the corner of 16th and Swann streets, being thereon numbered eighty (80); that the said Terry, as agent for the complainant and with the knowledge of the complainant, as this defendant believes and avers, exhibited said paper purporting to be a correct plat of the said subdivision and by which the buildings that were then in process of erection were on the lots numbered ninety-two (92) to ninety-nine (99), inclusive, on said erroneous plat for the purpose of deceiving this defendant; that being so misled and imposed upon and so believing the said buildings to be in process of erection upon the said lots so numbered and pointed out to this defendant by the said Terry, he was satisfied that the

22 security for said loan was ample and for that reason the same was consummated; that this defendant believed that the taxes on said property had been paid, and that the said property was unencumbered, except as to a deed of trust to J. Bradley Adams and Charles P. Swayze to secure J. G. Adams a large sum of money

which was not then due, but he afterwards learned that a large amount of taxes was standing against said property and unpaid; that for the purpose of protecting the company represented by this defendant, and who has made the said loan, it was at the request of the complainant agreed by and between the complainant and this defendant that the money when received from the said company by said complainant should be handed over to and held and deposited by this defendant in his individual name for the purpose of being applied toward the payment of the encumbrances on said property and in the completion of the buildings in process of erection thereon, and this arrangement was carried out and all the moneys received from the said company on account of said loan of $16,000 by the complainant were by him turned over to this defendant and paid out and disbursed by this defendant to the claimant or on his orders for the purposes aforesaid and for such other liabilities on said property and connected with the business of the said complainant and said company as were mutually agreed upon by this defendant and the claimant; that some time after the making of said loan this defendant was greatly surprised to learn that the plat shown to him by said Terry, and purporting to be a copy of the subdivision aforesaid, was erroneous, and that the said lots in said subdivision, instead of commencing at the south end of said square and numbering thence north, actually began at the north end of said square—that is, at the corner of Swann street and 16th street—with lot numbered eighty-seven (87) and thence numbering consecutively to one hundred (100), inclusive, at the corner of 16th and S streets, and that the buildings which were on lots ninety-two (92) to ninety-nine (99), inclusive, by said false plat and which lots by those numbers
23 were given as security for said loan of $16,000 by the deed of trust as described were actually on lots eighty-eight (88) to ninety-five (95), inclusive, by the correct plat, and that four of the lots so identified and conveyed as security for the said loan were at the time vacant and encumbered by the said trust to Adams and Swayze and by taxes.

This defendant denies that he has in any manner violated the said contract or agreement between himself and the said complainant in regard to the payment of the said money so voluntarily turned over to him by the complainant for payment as aforesaid, and he denies that he in any manner acted fraudulently and corruptly or that he withheld any money from the complainant which was justly due to or owing to him, and he denies that by withholding money properly payable to said complainant or on his orders he ever embarrassed him in the completion of said houses, but he admits that he did not pay all of the trust to Adams out of the first moneys given to him by the complainant for the reason that the debt secured by the said trust was not then due, and the complainant expressly requested this defendant not to pay said debt then so that more money might be applied toward the said houses.

In answer to the fifth paragraph he admits that complainant applied for and obtained the loan as therein stated, and, after receiving the same, or such part thereof as was not retained by the said

company under the agreement between it and the said complainant, that the complainant turned the same over to this defendant as he had previously done as to the said $16,000 loan for disbursement as stated in regard to that loan; that out of this money he paid the said Adams the amount of the encumbrance held by him against the said property and the residue thereof to the complainant, or on his orders, to and for the purposes of the trust so voluntarily assumed by him at the request of and agreement with said complainant, and

24 he denies that he violated his said contract with said complainant in any manner, and denies that he acted fraudulently or corruptly towards him, and denies that he withheld any moneys from him or embarrassed him in any way in the completion of the said houses, as charged in the said fifth paragraph.

That shortly after, or about the time of the loan of $9,000 made to the complainant, as stated in the sixth paragraph, it became evident to this defendant, as well as to said complainant, that the said buildings on said property were not being completed as rapidly and as thoroughly as they should be, and that the great fault or apparent reason was that too many obligations resting upon said property and connected with the said transactions were paid by necessity from the said moneys so borrowed, leaving an insufficient amount to be applied on the buildings themselves; and shortly after this loan was made, to wit, February 25th, 1880, the said complainant, of his own volition, voluntarily transferred and conveyed to this defendant all the said property before included in the said several deeds of trust, together with certain other lots described in the conveyance then made, which properly was taken by this defendant for the purpose of better securing the said company in the ultimate realization and collection of the moneys so as aforesaid loaned to the complainant; and this defendant admits that only a portion of the said $9,000 was applied by this complainant at the time of the said loan toward the building of the said houses; but he says that the bulk of said money was paid out and disbursed by him, after receiving the deed from said complainant for said property, in paying off encumbrances thereon and liabilities connected therewith; that after the said encumbrances on said property and other liabilities were paid by this defendant he did not have sufficient means in his hands to complete the said houses; and this defendant denies all allegations charging him with fraudulent or corrupt conduct in the said sixth paragraph, and denies that he withheld from the complainant any moneys unjustly, or that he by his actions in any way embarrassed the complainant in his said business.

25 This defendant, in answering the seventh paragraph, says he denies all the charges of improper conduct therein contained, and denies that the complainant had only received $14,725.15 out of the loans so as aforesaid made, and denies that there was at the date mentioned the said sum of $20,474.85 still remaining in the hands of this defendant or with his codefendant belonging to said complainant.

This defendant denies that he ever proposed to the complainant, as averred in the eighth paragraph, that he, said complainant,

should convey to this defendant the property therein described. On the contrary, he says that the complainant made the proposition to this defendant to transfer all of said property to him on two or three different occasions before this defendant finally concluded to accept the said conveyance. He denies that there was any such agreement between the complainant and this defendant on the transfer of the said property, as is alleged in said paragraph, with reference to the completion and sale of said houses and the division of the proceeds thereof between the complainant and this defendant; but, on the contrary, avers that the said conveyance to this defendant by said complainant was absolute and wholly voluntary on the part of said complainant and without the promise of any consideration whatever from this defendant.

In answer to the ninth paragraph he says that he admits the conveyance as therein stated, but denies that said conveyance was made on account of any wrongful conduct upon the part of this defendant in withholding the moneys due said complainant, and denies that the said conveyance was made on the promise and for the purpose as claimed by said complainant in the said eight- and ninth paragraphs.

He admits that he did not proceed to complete the said improvements on said property immediately after the receipt of said deed, as averred in the tenth paragraph, for the reason that after payment of encumbrances and claims against the said property he had
26 not moneys sufficient in his hands to complete said improvements, and was compelled to wait until he could make arrangements to procure more money, hoping in the meantime to be able to make sales of a portion of the said lots for the purpose of raising money to complete said buildings. He admits that the said buildings are now finished.

He admits that the houses are finished, as averred in the eleventh paragraph, but denies that most of them are sold, as therein stated, and he denies that he has refused to give complainant any information about said business, but avers that complainant has no right to demand any account of him in the premises. He says that only two of the nineteen houses included in said deed have been sold and conveyed, to wit, the house known as the Howard house, on 6th street northwest, being lot H in W. W. Corcoran's subdivision of lots one (1) and thirty-seven (37) to fifty (50), inclusive, of a subdivision of square four hundred and forty-six (446), which was sold to William M. Hodges for $3,500 and conveyed by deed dated April 25th, 1882, and recorded in Liber 1005, folio 146, and lot 100 and part of 99, in Balloch's subdivision of square 177, sold to J. J. Reynolds for $7,500 and conveyed by deed dated June 7, 1882, and recorded in Liber 1010, folio 254. Contracts have been made for the sale of five (5) other houses, deeds to be made when cash payments amount to $500 respectively on each house so sold, none of which payments have yet been made, and therefore no conveyance given.

He denies that there is now in this defendant's hands or in the hands of his codefendant $40,000 belonging to the complainant, or any other sum whatever.

He denies that he has acted wilfully, corruptly, and fraudulently in this matter, as charged in thirteenth paragraph, and he denies that he has attempted to conceal any sale or sales of said property for any purpose whatever.

He denies that he has conspired with this codefendant, as charged in the fourteenth paragraph, or with any other person to cheat and defraud the complainant out of any interest he ought — have in said property, and he denies that the said complainant has any interest whatever in the said property, and he avers that the moneys advanced by his codefendant in loans to said complainant and in paying encumbrances on said property and in erecting and completing the buildings thereon and the moneys borrowed by this defendant and expended in completion of said houses amount to about $73,500, which is more by about $9,000 or $10,000 than the said property is worth at present prices on a fair valuation thereof; and this defendant therefore says that on the complainant's own showing he has no interest in said property, because all such advances are to be paid before his pretended claim; and, further, he avers that he is ready and willing to render an account of all his transactions in this matter before the auditor or before this court or elsewhere if he shall be decreed to do so by this court; but he says the complainant having voluntarily conveyed the said property to this defendant without any reservation whatever and without any trusts connected therewith by said deed under seal, recorded in Liber 937, folio III, hereby referred to as part hereof, he submits to the court whether he should render any other or further account than he has done in this answer, and he asks the same benefits under this answer as he might have had by a plea for said cause.

27

And, having fully answered, he asks to be hence dismissed with his costs, &c.

WILLIAM R. HOOPER.

EDWARDS & BARNARD,
Solicitors for Defendant.

DISTRICT OF COLUMBIA, *ss:*

William R. Hooper affirms that he has read the foregoing answer by him subscribed and knows the contents thereof; that the facts therein stated as of his personal knowledge are true, and that the facts therein stated upon information and belief he believes to be true.

28

WILLIAM R. HOOPER.

Affirmed to before me this *this* 28th day of February, A. D. 1883.

R. J. MEIGS, *Clerk*,
By R. J. MEIGS, No. 3,
Assistant Clerk.

29 *Replication. Filed Oct.* 3, 1883.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WM. R. HOOPER *et al.* } # 8381, Eq. Doc. 22.

The plaintiff joins issue upon the defendants' answers filed herein.

H. B. MOULTON,
Sol. for Compla'nt.

30 *Order Appointing Henry W. Bosworth to Take Deposition of non-resident Witness Filed June* 23, 1884.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

On motion of defendants' solicitors it is, this 23rd day of June, 1884, ordered that a commission to take testimony in behalf of the defendants on interrogatories and cross-interrogatories attached issue to Henry W. Bosworth, of the city of Springfield, in the State of Massachusetts, in the usual form.

W. S. COX, *J.*

31 *Deposition of E. W. Bond. Filed July* 12, 1885.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

STATE OF MASSACHUSETTS, }
County of Hampden, } *ss:*

Be it remembered that at an examination of Ephraim W. Bond, a witness, begun and held before me, in pursuance of notice, on the ninth and tenth days of July, A. D. 1884, when the within deposition was taken, I, Henry W. Bosworth, a notary public and commissioner, duly appointed to take the deposition of said witness, did cause to be personally present at my office, in the city of Springfield, in said county, the said witness, Ephraim W. Bond, to testify on behalf of the defendants in a certain cause now depending in the supreme court of the District of Columbia, wherein Robert A. Balloch is complainant and The Massachusetts Mutual Life Insurance Company *et al.* are defendants.

The said witness being examined by me upon the interrogatories and cross-interrogatories annexed to the commission issued by said court to me to take the deposition of said witness—

(1.) In answer to the first interrogatory the said Ephraim W. Bond saith: My name is Ephraim Ward Bond; I am 63
32 years of age, and reside in Springfield, Massachusetts; I am president and treasurer of the defendant insurance company, & have been such since March 4, 1873.

(2.) To the second interrogatory he saith: I do not remember that I have ever seen the plaintiff Balloch, & I have no knowledge of him except in connection with business transactions had with him through the defendant Hooper during the last six or seven years. I have been acquainted with the defendant Hooper ever since I became president and treasurer of the defendant insurance company, in 1873. During that period he has acted as a life insurance agent for said company, and said company has also occasionally made loans through him on real estate in Washington, D. C., and my acquaintance with him has been in connection with the business he has thus transacted for said company.

(3.) To the third interrogatory he saith: The consideration for the notes mentioned in the third interrogatory was cash loaned to the complainant by the defendant company at or about the dates of the promissory notes mentioned and credits allowed the plaintiff for interest then due to the defendant insurance company from the complainant on other promissory notes of the complainant then held by said company and certain other credits then given to the complainant for moneys due by the complainant to said com-
33 pany on account of purchases theretofore made by him of property in Washington city, District of Columbia, from said company.

(4.) To the fourth interrogatory he saith: The loans to the plaintiff by the defendant company represented by said notes were made to him on his application and upon the strength of the security of certain real estate conveyed by the complainant to the defendant Hooper in trust to secure the same by deeds of trust bearing contemporaneous date with said notes. I attach, as requested, a statement marked "A," with seven drafts or checks annexed, giving the date and the amounts of payment to the complainant or on his account as the consideration for said notes; and I further say that the payments and credits shown by this statement were actually paid to the plaintiff and he was given credit therefor on the other promissary notes then held by the said company, as stated in my answer to interrogatory No. 3.

(5.) To the fifth interrogatory he saith: The indebtedness due to the defendant insurance company by the plaintiff on account of the loans represented by the promissary notes described in interrogatory No. 3, both as principal and interest, on February 25, 1880, the date of the conveyance mentioned from the plaintiff to the defendant Hooper, is shown by the statement hereto annexed marked "B."

(6.) To the sixth interrogatory he saith: Neither I nor any
34 of the other officers of the defendant insurance company had any knowledge or information whatever of the proposal or of the intention of the plaintiff to surrender the property given as security for said promissary notes, with the unfinished buildings

thereon, prior to or at the time of the said conveyance of February 25, 1880.

(7.) To the seventh interrogatory he saith: The defendant insurance company was first informed or notified of said conveyance from the plaintiff to Hooper on or about October 9, 1881, by Mr. F. H. Smith, who called on me at Hooper's request in order to confer with me concerning certain matters between the plaintiff and Hooper and between Hooper and the defendant company.

(8.) To the eighth interrogatory he saith: The notes mentioned in this interrogatory were settled and cancelled in consideration of the execution and delivery to us of a certain promissary note of the defendant Hooper to said company, dated November 1, 1881, and secured by a deed of trust from him to Frank H. Smith, bearing even date with said note. Nothing was ever paid by the complainant to the defendant insurance company, to my knowledge or so far as shown by the books of said company, on account of the principal of the promissary notes mentioned in this interrogatory. The total amount due from the complainant to said company at the time of the cancellation of said notes and at the time said
35 Hooper executed his said note to the company and deed of trust to secure the same was the sum of $38,496.00.

(9.) To the ninth interrogatory he saith: The answer to this interrogatory is substantially given in my answer to the interrogatory No. 8. The defendant Hooper desired to negotiate a new loan on the security of the property conveyed to him by the complainant, and the trust deeds theretofore given thereon by the complainant to secure said company for the promissary notes given for loans theretofore made by the company to the complainant were released, and the amount then due on the said notes of the complainant to the company was treated as a part of the consideration to Hooper for the note given by him, as stated, to the company.

(10.) To the tenth interrogatory he saith: The moneys that the defendant company has actually paid out and advanced on account of the property mentioned in this interrogatory No. 10, other than the amounts represented by the promissary notes described in the interrogatory No. 3, appear in a statement hereto attached marked "C," showing said payments and advances, as a part of my deposition.

(11.) To the eleventh interrogatory he saith: The moneys received by the defendant company to this time from said property, either as interest on loans, payments on account of loans, rents, and proceeds of sales thereof, also appear in a statement thereof showing such receipts as a part of this deposition, marked "D."
36

(12.) To the twelfth interrogatory he saith: The sum of $18,399.87 (not including original loans to Balloch & int. on same to Nov. 1, 1881, and since that date).

(13.) To the thirteenth interrogatory he saith: The defendant Hooper was authorized to solicit applications for life insurance for said company and to deliver the polices issued thereon and to collect the premiums therefor. He also sent to said company occasionally applications for loans on real estate in Washington, and if said

company had funds on hand at such times which they wished to loan, and if the securities referred to in such applications were satisfactory to said company, said Hooper was notified that the applications were granted, and that when the proper papers had been executed and the titles were found to be satisfactory remittances for the loans would be made to the borrowers through said Hooper. He had no authority to do any act in connection with said loans or with the properties on which they were secured without conferring with and obtaining the consent of said company.

(Lastly.) In answer to the interrogatory "lastly" propounded to said witness on the part of the defendants the said witness saith: I have no present recollection of anything further to say.

X-Interrogatories.

(X 1.) In answer to the first cross-interrogatory propounded to the said witness, Ephrain W. Bond, on the part of the complainant
37 he saith: By drafts and checks, all payable to or indorsed to the order of the complainant except in one instance, which was a draft dated July 9, 1879, for $7,200.00, which was indorsed to the order of William R. Hooper, general agent. These drafts and checks were forwarded *to* the home office of the defendant company, at Springfield, Massachusetts, to the defendant Hooper, at Washington, D. C., as agreed upon between the complainant and the defendant company. I knew when this loan was agreed to be made that the houses mentioned were partly completed, and for that reason the money was forwarded in instalments.

(X 2.) In answer to the second cross-interrogatory the said witness saith: It is not a fact to my knowledge that at the time the loan of June 4, 1879, was made to the complainant $550.00 of the interest then due on other loans and deducted and credited to Balloch in account by previous agreement between him and the company, as stated, had already been paid to the defendant Hooper by the persons and in the manner stated in this cross-interrogatory. The defendant company has not and to the best of my knowledge and belief never did have any agreement or agreements in writing with the complainant in relation to this loan of June 4, 1879.

(X 3.) To the third cross-interrogatory he saith: The company prior to the agreement of sale to the complainant of lot 14, in
38 square 722, known as the Archer house, had loaned money on the security of a deed of trust thereon to defendant Hooper, which trust deed was foreclosed by him to pay the amount due to the company. The company at such foreclosure sale, which was made at auction, became the purchaser thereof and received a conveyance thereof in fee simple, the price paid therefor by the said company being the amount then due to it, secured by the trust and the costs of sale. The property thus purchased was sold to the complainant for just what it cost the company, and I do not know of any irregularity or difficulty in the title when sold to the complainant. Full consideration was given by the company to the complainant for the $400 mentioned in this cross-interrogatory.

(X 4.) To the fourth cross-interrogatory he saith : The checks and drafts mentioned were sent to the defendant Hooper, as before stated, and at the request and for the accommodation of the complainant and with the understanding and assurance of the complainant at the time the loans were made that the title to the property intended and offered as security for the loans was good and unincumbered at the time the loans were made, and it was agreed that the defendant Hooper on the receipt of said drafts and checks should pay one-half of the loan on each lot to the complainant when each house being constructed thereon was under roof and the other half when the house was fully completed; and it was further understood and agreed between the
39 complainant and the company before any loans were made or remittances sent that all of the promissary notes of the complainant given to the company as evidence of the loans to him should bear interest from their respective dates and as soon as the loans to the complainant were agreed upon and his notes were received by the company. The latter held the money subject to the order of the complainant or forwarded it to the defendant Hooper, as stated, upon the conditions and terms aforesaid. I do not know whether the defendant Hooper paid the money to the complainant Balloch in small sums or not. This manner of payment by the company, as stated, was at the request and was solely for the benefit and accommodation of the complainant.

(X 5.) To the fifth cross-interrogatory he saith : All of the loans of the defendant company were paid by it in full to the complainant. The consideration for all of the promissary notes given by the complainant to the company was money actually paid by the company to or for the complainant and credits given to him on other indebtedness due by him to the company at the time, as before stated by me. The complainant Balloch never complained to me or to the company or to any of its other officers, to my knowledge, concerning the non-payment to him of the full consideration for these loans, or that the disbursement thereof by the defendant Hooper was not satisfactory to him, or that the said Hooper was not performing his duties concerning the disbursement
40 of said money until the filing of the bill of complaint in this cause.

(X 6.) To the sixth cross-interrogatory he saith : I answer no. The company kept no books or accounts showing payments by Hooper to complainant out of the drafts and checks mentioned. The company had nothing to do with such payments, it being a matter of account solely between the complainant and Hooper.

(X 7.) To the seventh cross-interrogatory he saith : I had some correspondence with Wm. R. Hooper, our agent, but none with the complainant regarding the loans made by our company to the complainant, and I annex hereto copies of such letters as I wrote to said Hooper and as I copied in my letter book marked " E " (6 letters), and I also annex hereto such letters from said Hooper to me as I preserved and have been able to find marked.

No officer of our company except myself had any correspondence with either said Hooper or the plaintiff regarding said loans.

(X 8.) To the eighth cross-interrogatory he saith: $416.66, being the balance of the cash payment due to the company on the purchase by the complainant from the company of what is known as the "Archer" houses, was deducted from the $10,200.00 loan, as agreed upon, of which, I believe, $247.48 or about that sum was the balance of cash due on the lot 14, in square 722, one of said
41 "Arthur" houses. This question also assumes that the company had no title to said lot, which I do not admit, but, on the contrary, assert that the company had a good and valid title thereto, as I believe.

(X 9.) To the ninth cross-interrogatory he saith: Yes; I have no knowledge that the houses or premises known as the 13th and Q street property had been previously sold and the incumbrances assumed and the interest paid by the purchasers thereof prior to the loan of October 17, 1879.

(X 10.) To the tenth cross-interrogatory he saith: Yes; with the qualification, however, that this interrogatory assumes it to be a fact that the complainant only received from the defendant Hooper $14,488.40 from the loans of June 4th and October 17, 1879, which I do not admit.

(X 11.) To the eleventh cross-interrogatory he saith: Yes; with the qualification that this interrogatory assumes it to be a fact that the defendant insurance company had no legal title to the "Archer" house, whereas I claim that said company had a good title to it, and also with the qualification that this interrogatory assumes it to be a fact that the cash actually paid to Balloch by Hooper was only $14,725.15, which I do not admit. I also wish to state that no interest was charged against the complainant for the Howard or 6th-street house, except from the date of the note which the
42 complainant executed to the defendant insurance company towards payment for said house when it was conveyed to him by said company.

(X 12.) To the twelfth cross-interrogatory he saith: As before stated by me, I did not nor did any of the other officers of the company, to my knowledge, know that the complainant had executed the conveyance to Hooper mentioned in this interrogatory until the time mentioned in my answer to the direct interrogatories. This question also assumes it to be a fact that $20,475.85 of the loans mentioned remained in the hands of Hooper at the time stated, which I do not admit.

(X 13.) To the thirteenth cross-interrogatory he saith: No; not to my knowledge.

(X 14.) To the fourteenth cross-interrogatory he saith: It appears that what is known as the Howard house, on 6th street, is included in the conveyance from the complainant to Mr. Hooper of February 25, 1880. I deny, however, that the complainant never received any value or consideration for the $750.00 mentioned in this interrogatory. He received full value therefor.

(X 15.) To the fifteenth cross-interrogatory he saith: To the first

part of this interrogatory I answer yes, and I refer to my answer to the tenth direct interrogatory for a statement of the amounts so paid and the dates of the payments. All the payments toward the completion of said houses were made by the defend-
43 ant insurance company to F. H. Smith & Son, of Washington, D. C. All receipts and other vouchers for disbursements of said amounts are in the hands of the defendant Hooper.

(X 16.) To the sixteenth cross-interrogatory he saith: Said houses were completed by F. H. Smith & Son, under a verbal agreement which I made with F. H. Smith, on or about October 9th, 1881, at which time he called on me at my office, in this city; there were no written contracts relative to the completion of said houses; all the vouchers and receipts for labor performed and materials furnished in the completion thereof are in the possession of said Hooper; so far as I had any correspondence about the completion of said houses it was with said F. H. Smith & Son, and I do not remember having any with said Hooper.

(X 17.) To the seventeenth cross-interrogatory he saith: I think the only properties which have been sold are lot No. 100, on 16th street, for $7,500, to Gen. Reynolds; lot No. 18, on "S" street, to said Reynolds for $3,200; lot No. 20, on said "S" street, to J. H. Robinson for $3,000; lot No. 21, on said "S" street, to A. H. Voss for $3,000; lot No. 22, on said "S" street, to C. Brandt for $3,000, and also, on said "S" street, lot No. 23 to W. Bremer for $3,000; also, on 6th street, lot "H," square 446, to Wm. M. Hodges for $3,500. The total amount of cash received by the defendant company to this date on account of payments on contracts for
44 sales and on mortgages and for interest on same and for rents is $10,294.17. I cannot state what amount has been received in bonds or notes on account of sales; the defendant Hooper is the only one who can give that information and describe fully the character of said notes and give the particulars inquired about in this interrogatory.

(X 18.) To the eighteenth cross-interrogatory he saith: The defendant Hooper has been the agent of the defendant company for upwards of eleven years, and there has been no change in the character of his agency within the last ten years.

(X 19.) To the nineteenth cross-interrogatory he saith: Yes.

(X 20.) To the twentieth cross-interrogatory he saith: No; so far as the progress of the work from time to time was reported to the defendant company it was reported by F. H. Smith and Son and not by said Hooper.

EPHRAIM W. BOND.

Subscribed and sworn to before me July 10, 1884.

HENRY W. BOSWORTH,

[SEAL.] *Notary Public, Commissioner.*

45 I, Henry W. Bosworth, a notary public and commissioner appointed to take the within deposition, do hereby certify that the within deposition was taken down and by me reduced to

writing in the presence of and from the statements of the witness, at the time and place designated in the caption thereof, and by me read over to the witness and by him subscribed in my presence, the witness having been by me first duly sworn to testify the truth, the whole truth, and nothing but the truth touching the matters at issue in said cause. I further certify that I am not of counsel for any of the parties to said cause or in any manner interested therein.

[SEAL.] HENRY W. BOSWORTH,
Notary Public, Commissioner.

Fee for taking deposition, $25.00.

46 $20.01. SPRINGFIELD, MASS., *April 16th*, 1880.

The Chicopee National bank pay to the order of Robert A. Balloch, Esq., twenty $\frac{01}{100}$ ($20.01) dollars.

No. 449. MASSACHUSETTS MUTUAL LIFE INS. CO.
E. W. BOND, *Treas.*

[Written across the face in red ink:] Chicopee National bank. Paid April 24, 1880. Springfield, Mass.

Endorsements: Pay only through Springfield clearing-house to John Hancock National bank. E. D. Chapin, cashier. Pay to the order of Wm. R. Hooper. Robert A. Balloch. Wm. R. Hooper. Pay E. S. Hayward, cashier, or order for collection for account of Second National bank, Washington, D. C.—M. G. Emery, pres't. For collection on account of Freeman's Nat'l bank, Boston.—Edward S. Hayward, cashier.

47 No. 70010. SPRINGFIELD, MASS., *Feb.* 17, 1880.

The Chicopee National bank pay to the order of C. H. Churchill, teller, sixty-seven hundred & fifty dollars.

$6,750. HENRY FULLER, JR., *Pres't.*

Importers' & Traders' National bank, New York.

Endorsements: 6,750. Pay to the order of E. W. Bond, t'r. C. H. Churchill, teller. Pay to the order of Robert A. Balloch. Massachusetts Mutual Life Ins. Co.—E. W. Bond, treas. Pay to the order of Wm. R. Hooper. Rob't A. Balloch. W. R. Hooper. First Nat'l. bank, N. Y. Paid. Pay E. Scofield, cas., or order for collection for account of Second National bank, Washington, D. C.—M. G. Emery, pres't.

48 No. 60301.

$67.64. SPRINGFIELD, MASS., *Ap'l* 16, 1880.

The Chicopee National bank pay to the order of E. W. Bond, Esq., treas., sixty-seven $\frac{64}{100}$ dollars.

A. B. WEST, *Cashier.*

To the Mercantile National bank, New York.

Endorsements: 67. Pay to the order of Robert A. Balloch. Massachusetts Mutual Life Ins. Co.—E. W. Bond, treas. Pay to the

order of Wm. R. Hooper. Robert A. Balloch. Wm. R. Hooper. Pay E. Scofield, cash., or order for collection for account of Second National bank, Washington, D. C.—M. G. Emery, pres't. First Nat'l bank, N. Y. Paid.

49 No. 67855. SPRINGFIELD, MASS, *June* 4, 1879.

The Chicopee National bank pay to the order of C. H. Churchill, teller, seventy-four hundred eighteen $\frac{50}{100}$ dollars.

$7,418.50. HENRY FULLER, JR., *Pres't.*

To the Importers' & Traders' National bank, New York.

Endorsements: 7,418. Pay to the order of E. W. Bond, tr. C. H. Churchill, teller. Pay to the order of R. A. Balloch, Esq. Massachusetts Mutual Life Ins. Co.—E. W. Bond, treas. Rob't A. Balloch. W. R. Hooper. Pay E. Scofield cas., or order for collection for account of Second National bank, Washington, D. C.—M. G. Emery, pres't. First Nat'l bank, N. Y. Paid.

50 No. 69565. SPRINGFIELD, MASS., *Dec.* 24, 1879.

The Chicopee National bank pay to the order of C. H. Churchill, teller, forty-four hundred fifty-three $\frac{58}{100}$ dollars.

$4,453.58. HENRY FULLER, JR., *Pres't.*

To the Importers' & Traders' National bank, New York.

Endorsements: 4,453. Pay to the order of E. W. Bond, tr. C. H. Churchill, teller. Pay to the order of Rob't A. Balloch, Esq. Massachusetts Mutual Life Ins. Co.—E. W. Bond, treas. Pay to the order of Wm. R. Hooper. Rob't A. Balloch. W. R. Hooper. Pay E. Scofield cas., or order for collection for account of Second National bank, Washington, D. C.—M. G. Emery, pres't. First Nat'l bank, N. Y. Paid.

51 No. 69012. SPRINGFIELD, MASS., *Oct.* 17*th*, 1879.

The Chicopee National bank pay to the order of E. W. Bond, Esq., tr., forty-one hundred five $\frac{08}{100}$ dollars.

$4,105.08. HENRY FULLER, JR., *Pres't.*

To the Importers' & Traders' National bank, New York.

Endorsements: 4,105. Pay to the order of Robert A. Balloch. Massachusetts Mutual Life Ins. Co.—E. W. Bond, treas. Rob't A. Balloch. W. R. Hooper. Pay E. Scofield, cas., or order for collection for account of Second National bank, Washington, D. C.—H. C. Swan, cashier. First Nat'l bank, N. Y. Paid.

52 No. 68135. SPRINGFIELD, MASS., *July* 9, 1879.

The Chicopee National bank pay to the order of C. H. Churchill, teller, seventy-two hundred dollars.

$7,200. HENRY FULLER, JR., *Pres't.*

To the Importers' & Traders' National bank, New York.

Endorsements: 7,200. First Nat'l bank, N. Y. Paid. Pay to the order of E. W. Bond, tr. C. H. Churchill, teller. Pay to the order of Wm. R. Hooper, general agent. Massachusetts Mutual Life Ins. Co.—E. W. Bond, treas. Wm. R. Hooper, gen. agent. Pay E. Scofield, cash., or order for collection for account of Second National bank, Washington, D. C.—M. G. Emery, pres't.

53 STATEMENT "A," ANNEXED TO ANS. TO INTERROG. 4, WITH 7 DRAFTS ATTACHED—H. W. BOSWORTH.

Statement of Loan Ac. with Robert A. Balloch.

1879.		Dr.	Cr.
June 4.	By 8 mtg. notes of $2,000 ea., secured by trust deeds on lots Nos. 92 to 99, inclusive, Balloch's sub., in square 177	------	16,000
	To interest due Jan'y 1, '79, on 5 notes of $2,250 ea., secured by r. est. situate cor. of Q & 13th St. & Nos. 1506, 1508, 1510, & 1512 13th St.	581 50	
	To draft on N. Y. to R. A. Balloch's order	7,418 50	
July 9.	" Payment on ac. for two Archer houses sold to him, $400 ea., lot- 14 & 15, sq. 722	800	
	" Draft on N. Y. to order of Wm. R. Hooper, gen'l agent	7,200	
		16,000	16,000
1879.			
Oct. 17.	By 6 mtg. notes of $1,700 ea., secured by trust deeds on lots Nos. 18 to 23, inclusive, Jones', Adams', & Duvall's sub., sq. 177	------	10,200
	To balance of cash payments on two Archer houses sold to Balloch, situate lots 14 & 15, square 722	416 66	
	To interest due July 1, '79, on 5 notes of $2,250 ea., secured by mtg. on lots situate cor. of Q & 15th St. and Nos. 1506, 1508, 1510, & 1512 13th St.	578 26	
	To draft on N. Y. to order of R. A. Balloch	4,105 08	
Dec. 24.	To interest due Nov. 1, '79, on 8 notes of $2,000 ea., lots 92 to 99, inclusive, sq. 177, & on 6 notes of $1,700 ea., lots 18 to 23, inclusive, sq. 177, & on note of $2,760 on lot 14, sq. 722, & on note of $1,800 on lot 15, square 722	646 42	
	To draft on N. Y. to order of R. A. Balloch	4,453 58	
		10,200	10,200
1880.			
Feb. 17.	By one note of $3,000, secured by trust deed, lot 100, Balloch's sub., sq. 177	------	3,000
	By 3 notes, $2,000 ea., secured by trust deeds on lots 89, 90, & 91, Balloch's sub., sq. 177	------	6,000
	To cash payments on the Howard property, sold to Balloch	750	
	" draft on N. Y. to order of R. A. Balloch	6,750	
April 15.	" interest due May 1, '80, on 8 notes of $2,000 ea., lots 92 to 99, & on 6 notes of $1,700 ea., lots 18 to 23, and on note of $2,760, lot 14, & on note of $1,800, lot 15, and on note of $3,000, lot 100, and on 3 notes of $2,000 ea., lots 89, 90, & 91, and on note of $3,750, lot H	1,412 35	
	To Co.'s c'k for $20.01 & N. Y. d'ft for $67.64 to order of R. A. Balloch	87 65	
		9,000	9,000

54 FEB'Y 25, 1880.

Robert A. Balloch in Ac. with the Massachusetts Mutual Life Ins. Co.

1880.				
Feb'y 25.	To 8 notes for $2,000 ea , dated June 4, '79		16,000	
	" int. from Nov. 1, '79, at 8% 3 | 25		408	89
	" 6 notes for $1,700 ea., dated Oct. 17, '79		10,200	
	" int. from Nov. 1, '79, @ 8%, 3 | 25		260	67
	" one note, dated Feb'y 17, '80		3,000	
	" int. from Feb'y 17, '80, at 8%, 9 days		6	
	" 3 notes, $2,000 ea., dated Feb'y 17, '80		6,000	
	" int. from Feb'y 17, '80, at 8%, 9 days		12	
				$35,887 56

(Statement " B," annexed to ans. to interrog. 5—H. W. Bosworth.)

1881.				
Oct. 27.	To d'ft sent Smith & Son, ac. of finishing houses		500	
Nov. 2.	" " " " " to pay mtg. note & int.		1,677	
4.	" " " " " on ac. of finishing houses		2,000	
14.	" " " " " " " " " "		2,000	
23.	" " " " " to pay tax arrears		3,721	28
	" " " " " on ac. of finishing houses		2,500	
Dec. 6.	" " " " " " " " " "		2,500	
21.	" " " Wm. R. Hooper, trustee, fees, &c., lot 89		234	76
22.	" " " Smith & Son, on ac. of finishing houses		2,500	
31.	" " " " " " " " " "		2,500	
1882.				
Jan'y 24.	" " " " " " " " " "		2,500	
Feb. 23.	" " " " " " " " " "		3,000	
May 15.	" " " " " " " " " "		2,500	
17.	" paid Smith & Son commission on sales		561	
				$28,694 04

(Statement marked " C," annexed to ans. to interrog. No. 10—H. W. Bosworth.)

55 STATEMENT "D," ANNEXED TO ANSWER TO INTERROGATORY NO. 11—H. W. BOSWORTH.

1882.				
Feb'y 1.	By rents, payments on sales, & interest		164	35
M'ch 1.	Do.		153	37
April 5.	Do.		176	70
" 29.	Do.		199	85
May 17.	Do.		970	72
" "	Do.		70	15
" 31.	Do.		155	31
June 28.	Do.		201	15
July 31.	Do.		158	44
Sept. 13.	Do.		223	95
Oct. 2.	Do.		142	02
Nov. 2.	Do.		537	55
Dec. 2.	Do.		235	09
" 31.	Do.		241	27
1883.				
Feb'y 2.	Do.		215	25
March 3.	Do.		197	13
April 4.	Do.		180	53
July 2.	Do.		375	56
4.	Do.		493	95
Aug. 3.	Do.		161	70
Oct. 2.	Do.		405	75
Nov. 2.	Do.		295	52
Dec. 1.	Do.		462	72

1884.				
Feb'y	2.	By rents, payments on sales, & interest	1 48	
	29.	Do.	2,822 81	
M'ch	1.	Do.	137 55	
Ap'l	1.	Do.	336 83	
May	2.	Do.	236 88	
June	3.	Do.	340 59	
				$10,294 17

56 (Copy.)

The Massachusetts Mutual Life Insurance Company.

SPRINGFIELD, MASS., *June 4th*, 1879.

Wm. R. Hooper, gen. agent.

DEAR SIR: We have your favor of the 2nd inst., enclosing 8 notes for $2,000 each signed by Mr. Balloch for which I hand you herewith N. Y. draft to the order of R. A. Balloch for $7,418.50, this being for an advance of $1,000 on each note less $581.50, retained by request for payment of interest due from him Jany. 1st, 1879, on other notes. We have endorsed these notes as "interest paid to Jany. 1st, 1879."

P. S.—You are not to pay the $7,418.50 to Mr. Balloch till his mortgage to the company is executed and left for record and you have the attorney's certificate that the title is at that time all right, and particularly that there are no mechanics' liens and till Mr. B. has accepted the statements we sent you as to the cost of the Archer houses.

"E."

(Six letters to Hooper annexed to "X 7," each marked "E.")
[NOTARIAL SEAL.] H. W. BOSWORTH.

57 (Copy.)

The Massachusetts Mutual Life Insurance Company.

SPRINGFIELD, MASS., *July 9th*, 1879.

Wm. R. Hooper, gen. agent.

DEAR SIR: We hand you herewith a N. Y. d'f't to your order for $7,200, this being for the remaining $8,000 due on loan to R. A. Balloch from which we have deducted $800 to be applied to the purchase of the two Archer houses by him—$400 on each house.

I also enclose 6 blank notes to be used in closing up the sale of the Archer houses to Mr. Balloch, as requested by you.

Yours truly,
(Signed) E. W. BOND, *Pres't.*

("E," H. W. B.)
[NOTARIAL SEAL.]

58 (Copy.)

The Massachusetts Mutual Life Insurance Company.

SPRINGFIELD, MASS., *Oct. 17th*, 1879.

Wm. R. Hooper, gen. agent.

DEAR SIR: I have your favor of the 10th inst., inclosing Mr. Balloch's notes for $1,700 each, and dated Oct. 11th, 1879; these being for a loan of $10,200 we agreed to make to him, upon condition he would buy of us two of the Archer houses for the sum of $5,764.90 and pay us the sum of $1,200 on acc't of the purchase price.

To carry out this agreement I hand you herewith the company's deed for the two Archer houses running to R. A. Balloch, also a N. Y. d'ft to Mr. B.'s order for $4,105 this being an advance of one-half of the loan of $10,200 to him, less some payments to this Co. as shown by the following statement, to wit one-half of loan of $10,200 advanced ---------- $5,100

Less a pay't of $400 on ac. of Archer houses and interest $416.66. Less a pay't for interest due this Co. July 1, '79 and interest on interest, $578.26---------- 994 92

$4,105 08

59 The division or amount to be applied to each house of that portion of the purchase-money which is to be paid by giving us a mortgage on the Archer properties, I shall leave for you to decide. Before delivering to M-. B. the enclosed d'ft and deed, please see that all deeds are left for record, and that the title is good in the Co. after being left for record, and also please see that the fire insurance policies are made payable to the Co. We want an attorney's, or the register of deeds' certificate showing that after the deeds were left for record the title was good and subject to no other incumbrance.

Yours,

(Signed) E. W. BOND, *Pres't.*

("E," H. W. B.)

[NOTARIAL SEAL.]

60 (Extract.)

The Massachusetts Mutual Life Insurance Company.

SPRINGFIELD, MASS., *Dec. 24th*, 1879.

* * * * * * * *

I hand you herewith a N. Y. d'ft to the order of R. A. Balloch for $4,453.58, for settlement of the balance due him on his 6 notes of $1,700 each, on which we have heretofore advanced to him only one-half.

Statement of ac. as follows:

R. A. Balloch, ½ of 6 notes of $1,700 each	5,100	
Less int. due Nov. 1, '79, on 8 notes, $57.33 each	$458	64
Less int. due Nov. 1, '79, on 6 notes, $3.02	18	12
Less int. due Nov. 1, '79, on one note of $1,800	60	
Less int. due Nov. 1, '79, on one note of $2,760	102	
Less int. on int. on above from Nov. 1 to date	7	66
Bal. due Balloch, d'ft enclosed	$4,453	58

Before handing the draft to Mr. Balloch, I wish you to know personally that the houses covered by our mortgages are completed as per agreement. Mr. Sturtevant's certificate no doubt refers to the property covered by these notes, but it does not state the number of houses, and that the houses that are completed are the same on which we made a loan of $1,700 each, advancing ½ of the
61 amount loaned on each, thus positively connecting his certificate with this particular loan to Balloch. This will answer, however, if you will see to it that the houses covered by our mortgages are finished as agreed.

Very truly yours,
(Signed) E. W. BOND, *Pres't.*

(" E," H. W. B.)

[NOTARIAL SEAL.]

62 (Extract.)

The Massachusetts Mutual Life Insurance Company.

SPRINGFIELD, MASS., *Feb'y 7th*, 1880.

I also received the four notes signed by R. A. Balloch, one for $3,750, covering the loan on the Howard property sold to him; and three of $2,000 each and one — $3,000 for the new loan to him. On these four new notes, we are to advance $7,500, being the full amount of the three $2,000 notes, and $1,500 on the $3,000 note; the balance to be paid when the house is finished. From the $7,500 due him I deduct $750 for part payment of the Howard house and enclose herewith N. Y. d'ft to Mr. B.'s order for $6,750, which you are to deliver to him when all the papers are properly executed, and left for record and you have a certificate showing that our trust deeds when left for record give us a good and valid first lien on the property. The proposition that we accepted for the sale of the Howard property (which was contained in your letter of Jany. 26th, 1880) provided that the interest on the mortgage note we were to take for a part of the purchase-money, was to be at the rate of 8 per
63 cent. per annum, and I was surprised to see that the note called for only 7 per cent. Of course we are to have the rent from the Howard house up to the date of our note from Mr.

B., which is one month and 17 days, and when collected, please remit.

Yours truly
(Signed) E. W. BOND, *Pres't.*

("E," H. W. B.)

[NOTARIAL SEAL.]

64 (Extract.)

The Massachusetts Mutual Life Insurance Company.

SPRINGFIELD, MASS., *April 16th*, 1880.

* * * * * * *

I hand you herewith a N. Y. d'ft for $67.64 and our check for $20.01, both to the order of R. A. Balloch, this being the balance due him on the loan of $3,000 (½ of which has been heretofore advanced to him), less the interest on sundry notes due May 1st, 1880, as shown by the following statement:

Balance due him on note of $3,000									1,500
To int.	6 mos.	on	8	notes of	$2,000	each, at	8%	$640	
"	6	"	6	"	1,700	"	8%	408	
"	6	"	1	"	1,800	"	8%	72	
"	6	"	1	"	2,760	"	8%	110 40	
"	74 days	"	1	"	3,750	"	7%	53 96	
"	74	"	3	"	2,000	"	8%	98 67	
"	74	"	3,000	"	1,500,	advanced at	8%	24 66	
"	14	"	3,000	"	1,500,	"	" 8%	4 66	
								29 32	
									1,412 35
Balance due him									$87 65

Before this matter is closed up I think it was understood that we were to have Mr. Sturtevant's certificate, stating that the house is completed and finished according to the plans and specu*l*ations shown to him when he appraised the property for our loan. I have endorsed all of the above notes as interest paid to May 1st, 1880.

I send you our check for the $20.01, as it is too late to obtain
65 N. Y. exchange, and the necessity for sending this sum additional is on account of an error not discovered until after draft was obtained. Please send me the fire-insurance policies on the last four properties on which we made loans.

Very truly yours,
(Signed) E. W. BOND, *Pres't.*

("E, "H. W. B.)

[NOTARIAL SEAL.]

66 The Massachusetts Mutual Life Insurance Company.

WASHINGTON, D. C., *May* 29, 1879.

E. W. Bond, Esq., pres.

DEAR SIR: Will you please send me fire policy on 130 Mass.

Ave., Archer house, lot 16, that the fire company may admit the sale to Mrs. Niles.

If you accept Mr. Balloch's proposal for $16,000 on 8 houses, will you please send me 8 blank notes for his signature?

Yours truly, WILLIAM R. HOOPER.

(7 letters from Hooper, each marked "F," annexed to "X 7." H. W. Bosworth.)

67 ("F," H. W. B.)

The Massachusetts Mutual Life Insurance Company.

WASHINGTON, D. C., *June* 2, 1879.

E. W. Bond Esq. pres.

DEAR SIR: Your two favors of Saturday, enclosing fire policy of Archer house sold Mr. Niles and blank notes for mortgage from Balloch, and stateing that you accept Balloch's proposition, are duly received. I read your letter carefully to Mr. Balloch, stateing terms on which you would make up cost of the two houses and he accepts the same. I now enclose eight notes of $2,000 each dated June 4, the date at which I suppose the money will be sent from Springfield. From the $8,000 to be advanced thereon you will please deduct $465.20, being $450 due from Balloch for interest due Jan. 1, and $15.20 for interest @ 8% from Jan. 1 to June 4, leaving $7,534.80 to be sent me.

Your letter asks me to account for $369.10 charged in my Feb. report for real-estate expenditures. I trust you have these vouchers on file, as I sent them to you March 7 in a separate letter
68 from that which enclosed my report. Will you please consult your files?

Yours truly WILLIAM R. HOOPER.

Mr. Balloch would prefer to take and pay for the two houses from the last advance, paying interest to that date.

I also return herewith policy fire ins. for property sold Mr. Niles—It needs your signature to transfer.

("F," H. W. B.)

The Massachusetts Mutual Life Insurance Company.

WASHINGTON, D. C., *July* 5, 1879.

E. W. Bond Esq. pres.

DEAR SIR: I enclose herewith eight deeds, Bulloch to me, trustee, to secure $16,000.00.

Yours truly W. R. HOOPER.

("F," H. W. B.)

69 ("F," H. W. B.)

The Massachusetts Mutual Life Insurance Company.

WASHINGTON, D. C., *Oct.* 6, 1879.

E. W. Bond, Esq., pres.

DEAR SIR: I enclose herewith my check for $47.32 paid for rent of house purchased under loan to F. W. Howard. I have also paid taxes and other expenses to the amount of $37.68 more; total rec'd for rent, $85.

Will you please send me the cost of this house up to Nov. 1, calculated at 8 %.

I enclose herewith Mr. Sturtevant's appraisal of the six houses offered by Mr. Balloch through his agent Mr. Terry. The houses will be roofed in a day or two, when I told him he might have half the loan, the other half when finished, say in 30 days. The property is directly front of the White House, but eleven squares off. You will please send me 9 blank notes. For those which are to be used in the sale of the two Archer houses to him. I advise dating Nov. 1, as then we can deduct the interest out of this loan. The houses will be kept insured by a builders' ins. policy.

Yours truly, WILLIAM R. HOOPER.

70 ("F," H. W. B.)

Massachusetts Mutual Life Insurance Company.

WASHINGTON, D. C., *Dec.* 22, 1879.

E. W. Bond, Esq. pres.

DEAR SIR: Enclose herewith please find my check for one hundred and fifty dollars, this day received from the following sources:

C. B. Parkman, interest	due July 1	$100	
"	on do. @ 8 %	4	
R. B. Niles,	due Nov. 1	$45	48
"	on do.		52
		$150	

I enclose Mr. Stenevant's certificate that Mr. Balloch has completed the houses on which the company made him loans according to statements made at time of loan. You will please forward me $5,100, due on last loan deducting therefrom the following sums with interest from Nov. 1, to day of sending.

8 of $57.33 each	$458	64
6 of 3.02 "	18	12
1 of $60, one of $102	162	
	$638	76

Yours truly, W. R. HOOPER.

71 ("F," H. W. B.)

The Massachusetts Mutual Life Insurance Company.

WASHINGTON, D. C., *Feb'y* 17, 1880.

E. W. Bond, Esq., pres.

DEAR SIR: Enclosed herewith please find ninety-two $\frac{52}{100}$ dollars ($92.52) from the following sources: Mrs. R. B. Niles, note $25, and interest, $1.32. Please send me her next note, due Mar. 16–19. J. G. Bond, sixty-six $\frac{20}{100}$ dollars for $65.60 due for interest on Archer note, Jan. 1, and 60 cents for interest. I also enclose renewal of his fire insurance.

I also enclose four noted signed by R. A. Balloch, one for $3,750, in return for Howard house sold him: Three of $2,000 each and one of $3,000, new loans. On these last four $7,500 is now due, leaving $1,500 more when corner house is completed; and from that sum $750 is to be deducted, in part payment of Howard house, leaving $6,750 due him, which he would be glad to receive by return mail.

Yours truly, WILLIAM R. HOOPER, *Agent.*

72 The Massachusetts Mutual Life Insurance Company.

WASHINGTON, D. C., *April* 13, 1880.

E. W. Bond, Esq., pres.

DEAR SIR: I inclose herewith five deeds of trust from Bulloch to accompany his loan notes; also two policies fire insurance.

Very truly, W. R. HOOPER, *Agent.*

73 The Massachusetts Mutual Life Insurance Company.

WASHINGTON, D. C., *April* 14, 1880.

E. W. Bond, Esq., pres.

DEAR SIR: I enclose herewith sixty-three $\frac{80}{100}$ dollars from the following sources:

$26.62 from Mrs. R. B. Niles, being $25 principal and 1.62 interest. Please send me her next note.

$37.18 from rent of Howard house up to its sale to Balloch. This closes up all your real estate in Washington, & henceforth will be only interest.

$1,500 is now due Mr. Balloch on his house, for which deed & note have been sent you. Please send him that amount, less interest due from him on sundry notes, due May 1. Credit him with interest from date of sending money to May 1, & deduct all interest then due.

Yours truly, WILLIAM R. HOOPER, *Agent.*

74 In the Supreme Court of the District of Columbia, the 23 Day of June, 1884.

ROBERT A. BALLOCH
v.
WILLIAM R. HOOPER *et al.*
} Commission to Take Depositions. No. 8381, Equity Docket 22.

The President of the United States to Henry W. Bosworth, of Springfield, Massachusetts, Greeting:

Know you that, in confidence of your prudence and fidelity, you have been appointed and by these presents you are invested with power and authority to examine E. W. Bond, of Springfield, Mass., as a witness for the defendants in the above-entitled cause upon the interrogatories annexed to this commission; and therefore you are hereby commanded, at a certain day and place or certain days and places to be appointed by you, to cause said witness to come before you, and then and there examine him on oath or affirmation upon the said interrogatories and reduce his testimony in writing, to be signed by said witness, and, having so done, annex the same to this writ, closed up under your seal, and make return thereof into said court with all convenient speed.

Witness D. K. Cartter, chief justice.

R. J. MEIGS, *Clerk*,
By M. A. CLANCY,
Assistant Clerk.

75 *Motion for Court to Direct Sale of Houses. Filed March* 7, 1887.

In the Supreme Court of the District of Columbia, this 4th Day of March, A. D. 1887.

ROBERT BALLOCH
vs.
WM. R. HOOPER.
} # 8301, Eq. Doc. —.

Now comes the plaintiff, by his solicitors, and moves the court to authorize and direct the sale of the four south houses in the row on 16th St. N. W., not heretofore sold, for the sum and price of $3,850.00 each, that price being offered for said houses by Thomas G. Hensey, as shown by his offer hereto attached, and said price being a full and fair price for the same, as shown by the affidavits and testimony heretofore filed and taken in this cause.

H. B. MOULTON,
Of Council for Plaintiff.

76 *Complainant's Testimony. Filed March* 18, 1885.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } In Equity. No. 8381, Doc. 22.

Testimony on behalf of the complainant taken before and by Charles L. Hine, examiner in chancery.

Here followed index, omitted here in printing. See general index.

77 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } In Equity. No. 8381, Doc. 22.

DISTRICT OF COLUMBIA, *ss:*

Be it remembered that at an examination of witnesses begun and held on the 11th day of October, 1883, and continued from time to time by adjournment until the 31st day of January, 1884, when the within depositions were taken, I, Charles L. Hine, an examiner in chancery, did cause to be personally present at the office of H. B. Moulton, Esq., No. 701 Seventh street northwest, in the city of Washington, in said District, Robert A. Balloch, George W. Balloch, Seth A. Terry, Joseph H. Pumphrey, Charles Gessford, Nathan Bickford, and A. B. C. Clement, to testify on the part and behalf of the complainant in a certain cause now depending in the supreme court of the District of Columbia wherein Robert A. Balloch is complainant and William R. Hooper *et al.* are defendants.

78 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381, Equity Docket 22.

Take notice that at the request of H. B. Moulton, Esq., solicitor for the complainant, I shall, on Monday, the 8th day of October, A. D. 1883, at 12 o'clock m., at the office of H. B. Moulton, Esq., No. 701 7th street northwest, in said city, proceed to take testimony in above-entitled cause on behalf of the complainant.

You are invited to be present and cross-examine if you shall see fit.

Very respectfully,

CHAS. L. HINE,
Examiner in Chancery.

To Messrs. Edwards & Barnard, solicitors for the defendants.

79 WASHINGTON, D. C., *October* 8, 1883.

Met pursuant to the annexed notice.

Present: H. B. Moulton, Esq., solicitor for the complainant, and Messrs. Edwards and Barnard, attorneys for the defendants.

Whereupon an adjournment is had to Thursday, the 11th inst., at 1 o'clock p. m., and at the same place.

80 WASHINGTON, D. C., *October* 11, 1883.

Met pursuant to adjournment.

Present: H. B. Moulton, Esq., solicitor for the complainant, and Messrs. Edwards & Barnard, attorneys for the defendants; also Robert A. Balloch, Esq., the complainant, and Seth Terry, Esq.

Whereupon ROBERT A. BALLOCH, the complainant, being duly sworn in his own behalf, and counsel for the complainant proceeding to take his deposition in the presence of Mr. Terry, whose deposition counsel for the complainant also proposes to take on behalf of the complainant, counsel for the defendants object and insist that Mr. Terry withdraw, to which counsel for the complainant will not consent; thereupon, the objection of counsel for the defendants being noted, the examination of Mr. Balloch proceeded as follows, Mr. Terry being present:

By Mr. MOULTON:

Q. Mr. Balloch, you are a party complainant in this suit, I believe?

A. Yes, sir.

Q. And you are the person that filed a bill in this case some months ago?

A. Yes, sir.

Q. Where do you reside, Mr. Balloch?

A. At present I am residing at Rockville, Montgomery county, Maryland.

Q. Prior to that where did you reside?

A. In Washington, on Corcoran street, I think, at that time.

81 Q. In what were you engaged long in June or July, 1879?

A. In building houses.

Q. Where, sir?

A. At that time on 16th street; a row of houses running northwest on the corner of "S," on the west side of Sixteenth, and on "S" street west of Sixteenth.

Q. How many houses all told, sir?

A. There were six on "S" and twelve on Sixteenth.

Q. Eighteen houses?

A. Eighteen houses. (After calculating:) There were twenty houses.

Q. Fourteen and six, then?

A. Yes, sir.

Q. Fourteen on Sixteenth street and six on "S" street?

A. Yes, sir.

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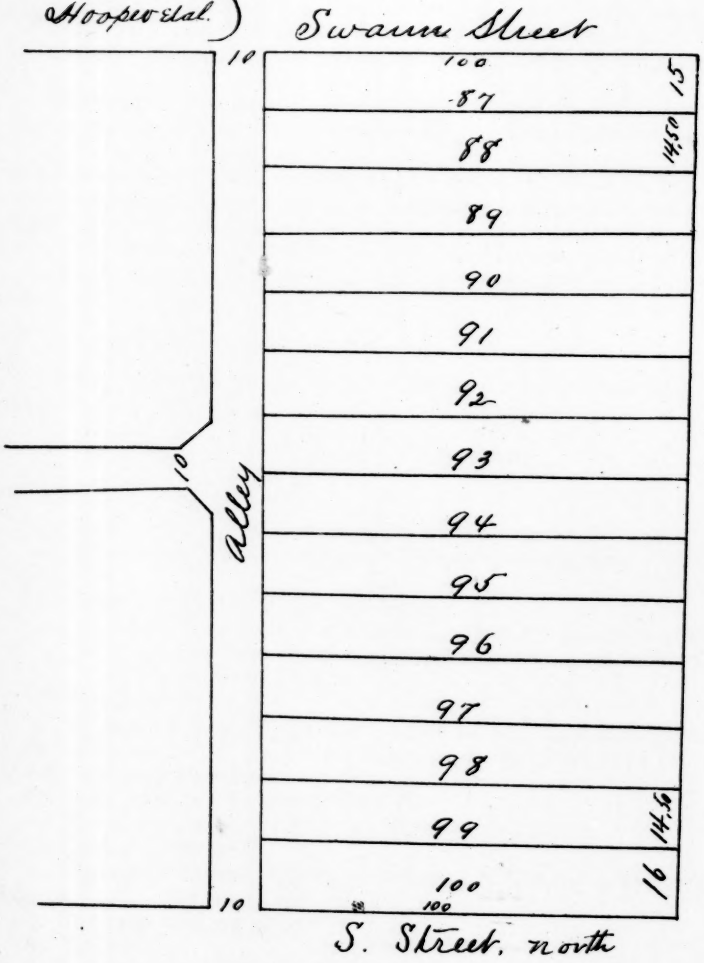
1777.



Q. Did you own any ground additional to this that you did not improve?

A. Yes, sir; on Swan street.

Q. From whom did you purchase this?

A. From Mr. Adams.

Q. After purchasing it did you or did you not make a subdivision?

A. I did make a subdivision.

Q. Just glance at that and state whether it is a copy of the subdivision you made of the lots you improved (handing witness paper).

A. Yes, sir; I think I also made——

Q. This is the subdivision?

A. Yes, sir.

83 Q. Are those all the lots you improved?

A. Yes, sir; every one of them.

Mr. MOULTON: I wish to offer in evidence an official plat of the subdivision just spoken of, called the Balloch subdivision, being a subdivision of square No. 177.

(Said plat is marked "Ex. C. L. H. No. 1" by the examiner for future identification. A copy of said plat is hereto annexed, the original to be produced at the hearing.)

(Here follows diagram marked p. 82.)

Q. Mr. Balloch, give a general description of the improvements that you were making on those lots.

A. On the "S"-street lots I built two-story and basement houses.

Q. What width?

A. They were, I think, about 18 feet—the "S" street were.

Q. How many rooms are there in those houses?

A. The one on the corner of the alley was wider than those.

Q. How many rooms are there in those houses?

A. There were 7 rooms and a hall room in the second story. In the basement of these are 2 rooms, in the second story there are two rooms, and in the upper stories there are 3. Those were my plans. What changes Mr. Hooper made in some of them after the property——

(The witness being here interrupted by his counsel, counsel for the defendants object.)

Q. What were the improvements on 16th street?

A. Well, they were three-story houses with 3 rooms on the first floor, a cellar under the whole house, 3 rooms on the second

84 with water-closets between, and two rooms on the third floor.

Q. Press-brick houses, or what kind?

A. They were hard brick built with black mortar and oiled down.

Sixteenth Street, West.

Q. Were these houses built the size of these lots after the subdivision?

A. All of them, sir.

Q. The width of the houses corresponded with the width of the lots?

A. Yes, sir.

Q. Did you at any time make application to the defendant The Massachusetts Mutual Life Insurance Company for a loan on account of these houses?

A. I did, sir.

Q. If so, at what time and on what houses?

A. In June, 1879, on 8 houses.

Q. Can you look at this little plat and give the number of the lots on which you made said application (handing witness plat)?

A. (After examining:) From 92 to 99—the first 8.

By Mr. BARNARD:

Q. Is that your subdivision?

A. Yes, sir.

By Mr. MOULTON:

Q. What loan did you desire to get on them?

A. $2,000.00 apiece.

Q. A loan of $16,000.00?

A. Yes, sir.

85 Q. Who represented the company in Washington at that time?

A. William R. Hooper.

Q. Defendant William R. Hooper?

A. Yes, sir.

Q. State the circumstances and the facts in relation to obtaining that loan.

A. I made the application on an order and survey to be made by Mr. Sturtevant. I disremember his first name.

Q. What else?

A. Mr. Sturtevant went out and examined the property and recommended the company to make the loan on what was asked.

Q. What condition were the improvements in at that time—the time he recommended this loan?

A. Well, different houses were in different conditions at the first loan——

Q. I am confining this to the first loan.

A. The houses, at the time of the first loan, were all under roof.

Q. Anything else done with them?

A. The plastering was done on a good many of them, windows on all of them, the doors to most of them; some of the inside work was done on all of them.

Q. Now, Mr. Balloch, just stop and think over that answer and refresh your memory in any way you can in thinking of the transaction, and see if you are not mistaken about the houses being under roof.

A. The first loan?

Q. Yes, sir.

A. I will take that back, sir.

Q. Now, sir, will you state, from your reconsideration of
86 the facts, as to the condition of those houses at the time that application was made?

A. That the first 5 houses of the first loan north from "S" street were all under roof at that time and work inside partially done, and plastering; that the three houses, 97, 98, and 99, had not more than the cellars in, if that—the basements.

Q. Now, sir, at the time of the making of that loan of $2,000.00 on a house were the improvements as just stated and the lots sufficient security for $2,000.00 on each house if paid down at the time the loan was made?

A. I think so, and Mr. Sturtevant recommended it.

Q. Did you ever see Mr. Sturtevant's letter recommending it?

A. I think I got Mr. Sturtevant's letters. He gave me the letter and I brought it down.

Q. Now, sir, those houses where only the cellars had been dug, and on account of which lots and cellars this loan of $2,000.00 had been recommended and made—would that have been sufficient security for $2,000.00 in their then condition?

A. I think so. I do not think there would have been any risk in the loan.

Q. How was the money to be paid over to you—all at once?

A. No, sir; as the work progressed, at different stages, the loans were to be paid—when certain houses were under roof, and then at different stages as the work progressed.

Q. Mr. Balloch, if at the time these loans were made you had money to loan on real estate yourself would you have loaned $2,000.00 on one of these lots where nothing but the cellar had been excavated?

(Objected to because leading and a cross-examination of the com-
plainant's own witness and simply calling for an opinion
87 without any foundation having been laid.)

A. No, sir.

Q. Then, Mr. Balloch, is it not a fact that at the time this loan was made the lots and the small improvements upon them would not have been worth the amount of the loan then made?

(Objected — for the same reasons as last aforesaid.)

A. No, sir; they would not have been worth it.

Q. State whether or not, in consideration of that fact, arrangements were not made between yourself, the company, and their agent, Mr. Hooper, by which Mr. Hooper should retain the fund and pay it over to you as the work progressed.

(Objected to as leading.)

A. The facts were these: that when the loans were asked for the understanding with the company, as I supposed, was and, as it

transpired or was shown by the way the money was advanced to me by its agent, that that was the understanding.

Q. State, Mr. Balloch, if you please, what the arrangement was between yourself and these defendants about paying over these loans.

A. When those houses were under roof I was to receive so much money. A number of those houses, when the money came, were under roof, and the understanding was that as those were under roof the money was to be advanced to me, so much on each one and more money as the work progressed on the houses—floors in, plastering, doors and windows hung, &c. That was the understanding from beginning to end.

Q. Where was this money to be held for you for that purpose and by whom?

A. By Mr. Hooper, as agent for the company.

88 Q. How were these remittances from the company made?

A. Made in drafts.

Q. This loan of $16,000.00—how did it come?

A. In drafts, I think, the first came. I won't be positive, but I think some of it came directly to Mr. Hooper and some came payable to my order.

Q. What was required by the agent of the company in relation to all of those drafts?

A. Those drafts that were made payable to my order—I was required to endorse them payable to the order of William R. Hooper and take his receipt for the same as agent for the Massachusetts Mutual Life Insurance Company.

Q. Did you take a receipt from Mr. Hooper at the time of the transfer of these drafts?

A. I am almost positive I did in every instance. I know I did several times.

Q. Mr. Balloch, this arrangement between yourself and the defendants, the company and Mr. Hooper, in relation to withholding this sum and paying it out in installments—was it oral or in writing?

A. It was oral, sir.

Q. Just look at that voucher, Mr. Balloch, and state whether or not that is a receipt for one of those drafts for money received from the company (handing witness paper).

By Mr. EDWARDS:

Q. What is the date of that?

A. October 18, 1879. That is one of them.

89 By Mr. MOULTON:

Q. Given to you by whom?

A. William R. Hooper.

Q. This is his signature there?

A. Yes, sir; as agent of the Massachusetts Mutual Life Insurance Company.

(Said paper is offered in evidence by counsel for the complainant and is marked "Ex. C. L. H. No. 2." A copy of said exhibit is hereto annexed, the original to be produced at the hearing.)

(Ex. C. L. H. No. 2.)

WASHINGTON, *October* 18, 1879.

Rob. A. Balloch has this day endorsed a check — $4,105.80, to — applied to his houses on S St. as they advance.

WILLIAM R. HOOPER,
Ag't Mass. Mut. Life Ins.

Q. State whether or not you made application for a second loan on account of the improvements you were making there.

A. I did, sir; I made application for a loan which was granted in October, 1879.

Q. Just look on this plat and tell the examiner on what houses and lots that second loan was made (handing witness plat).

A. On the 6 houses on S street.

Q. Numbered what?

A. 18 to 23, inclusive, north side of S street, west of Sixteenth street.

90 Q. What loan did you apply for on those houses?

A. $1,700 a house; $10,200.

Q. What was the condition of those houses when that loan of $1,700 was made?

A. I think all of those houses were under roof at that time.

Q. You mean by that, I suppose, that the walls were up, joists in, and the roof on?

A. Yes, sir; and some of them had a second coat of plaster; three or four of them, I think, and, of course, the floors were in. I think that was the case with three or four houses.

Q. What was the arrangement in regard to the paying over to you of the money on that loan?

A. As the work progressed, so much when they were under roof. The same understanding was had in each loan.

Q. You say you got so much. You mean you were to get so much?

A. Yes, sir; was to get so much.

Q. Where and by whom was this money to be held until needed as the work progressed?

A. By William R. Hooper, as the agent.

Q. Agent of this company?

A. Yes, sir. That (referring to Ex. C. L. H. No. 2) was a receipt for a portion of the second loan.

Q. $4,105.30?

A. Yes, sir. I think the loan was asked for on the 11th of October, and I think that was a portion of the money that came on that loan.

Q. Mr. Balloch, state whether or not you applied to the

agent of the defendant company for a third loan on this plat of ground.

91 A. I did.

Q. Will you look at that plat and state what improvements the loan covered?

A. Lots 89, 90, 91, and 100. The three first were at $2,000.00 apiece and the 100 was $3,000.00.

Q. Making a total——

A. A total of $9,000.00.

Q. The third loan?

A. Yes, sir.

Q. Was that loan allowed by the company?

A. Yes, sir.

Q. And how was that to be paid over to you?

A. As the work progressed.

Q. And the money to be held by the same person?

A. Yes, sir.

Q. The same one all the way through?

A. Yes, sir; the same one.

Q. Look at that voucher and state what it is (handing witness paper).

A. From the date of that voucher I know it is a receipt, for my signature endorsed that to William R. Hooper's order.

Q. What do you mean by that?

A. I made a loan in February, which was the third loan from this company, a few days prior to the date of that receipt; I think it was on the 11th. It is dated February 18, 1880, and the draft came payable to my order, and William R. Hooper came to me and would not give me that draft, and I endorsed it to his order.

92 Q. What is that?

A. This is a receipt for my signature to that draft.

Q. For what draft?

A. For that draft made in that third loan, from the date of it.

(Said receipt is offered in evidence by counsel for the complainant and is marked "Ex. C. L. H. No. 3." A copy thereof is hereto annexed, the original to be produced at the hearing.)

(Ex. C. L. H. No. 3.)

WASHINGTON, *Feb.* 18, 1880.

Received of R. A. Balloch draft for $6,750 from Mass. Mut. Life Ins. Co., to be expended on houses on 16th & S streets.

WILLIAM R. HOOPER,
Agent Mass. Mut. Life Ins. Co.

Q. Now, Mr. Balloch, going back a little in your bill filed in this case, you make this statement: "That the agreement between the plaintiff and the defendant as to the delivery to him of the money so borrowed as aforesaid, relating to this $16,000.00, was as follows,

to wit, one-half of said loan, to wit, $8,000.00, was to be paid to him when the notes and deeds of trust were delivered to the defendant." Was that paid to you?

(Objected to as leading.)

A. No, sir.

93 Q. Mr. Balloch, I mean was it paid to you at that time and in accordance with that agreement?

A. No, sir.

Q. What disposition, Mr. Balloch, was to be made of the remaining $8,000.00 of that loan?

A. The other half was to be paid to me.

(The question is read to the witness by the examiner.)

A. Some portion of it was to be paid on the ground, if I remember right.

Q. To whom do you refer when you say "to be paid on the ground"?

A. I mean to Adams.

Q. And who was Adams?

A. The party I purchased the ground from.

Q. Did Adams hold a prior claim to the ground?

A. Yes, sir.

Q. And that was to be paid for out of the other half of the fund by Hooper?

(Objected to as leading.)

A. Yes, sir.

Q. Mr. Balloch, what was to be done with the remainder of the $8,000.00 after paying the Adams claim?

A. To be advanced to me as the work progressed.

Q. Did they or did they not pay the whole of this $16,000.00 to you then or at any other time?

(Objected to as leading.)

94 A. During the first month that loan was made I got from Mr. Hopper in the neighborhood of $6,500.00 or $6,600.00 out of the first loan in June.

(The last question is read to the witness by the examiner.)

Q. You have no other answer to make?

A. No, sir.

Q. Mr. Balloch, state whether or not the defendants paid this money over to you as you needed it in the progress of your work.

(Objected to as leading.)

A. No, sir.

Q. Mr. Balloch, if you can state from memory, please tell the examiner what balance, if any, there remained due you on account of the first loan when you made application for the second.

A. I do not know that I can answer correctly. My memory don't serve me to answer right.

Q. Do you remember or not whether there was any balance due you?

A. Due me?

Q. Yes, sir.

A. Yes, sir. I remember this distinctly: that the whole of the first loan had not been paid to me by the agent of the company when the third loan was made.

Q. Mr. Balloch, s-ate, if you please, what effect the withholding of this money by the defendants had upon your business interests in the prosecution of the improvements.

A. It embarrassed me very much. I could only get the money in driblets and in such a way that it rendered little or no ben-

95 efit whatever.

Q. Mr. Balloch, will you state whether or not deeds of trust were given by yourself to secure these three several loans from the insurance company?

A. Yes, sir; the deeds of trusts were given as each loan was made to the Massachusetts Mutual Life Insurance Company, with William R. Hooper as trustee.

Q. Is that the same William R. Hooper, the agent of the company?

A. Yes, sir; the same.

Q. Now, Mr. Balloch, in your bill you state that one-half of the second loan of $10,200.00 was to be paid to you at the time you executed and delivered a deed of trust to the defendants. State whether or not that money was paid to you at that time.

(Objected to as leading.)

A. No, sir.

Q. What was to be done with the balance of that loan—the second loan?

A. The balance of it was to have been paid to me as the work progressed on those houses.

Q. Was it so paid to you?

A. No, sir; I never got half.

Q. Did you ever, sir, during the progress of your work and when you were needing the money, apply to the defendant's agent for it?

A. Over and over again, sir.

Q. State your experience in that matter in relation to your application.

96 (Objected to because calling for the experience of the witness, the statements only being admissable, if at all.)

A. From the time that loan was made, in October, all the way through I received less than $3,000.00 from William R. Hooper; the date I made the loan on the S street property.

By Mr. EDWARDS:

Q. Is this the second loan?

A. Yes, sir; the loan that was made on these houses for $10,200.

When I was to receive one-half of that loan for October, November, December, and January, I received less than $3,000.00.

By Mr. MOULTON:

Q. State whether or not this money was paid to you as needed in the prosecution of these improvements.

(Objected to as leading.)

A. No, sir; if the money had been advanced according to agreement, I would have had no difficulty in completing the houses.

Q. What effect did their withholding this money have upon your business interests?

A. It crippled me to such an extent that I had to abandon the completion of the houses myself and transfer them to the Massachusetts Mutual Life Insurance Company.

Q. Upon whose solicitation did you so transfer them?

(Objected to as leading.)

A. It was at the earnest solicitation of William R. Hooper over and over again, and I tried to get him to make certain pay-
97 ments before I would do it, and only one of them would he make, and I refused to make the transfer until he made that payment.

Q. Now, Mr. Balloch, coming down to the third loan, will you state to the examiner the amount of that loan and about when you applied for it?

A. In February, 1880.

Q. What was the amount?

A. $9,000.00.

Q. Will you look at that plat and tell the examiner what lots that loan was on (handing witness paper)?

A. 89, 90, 91, and 100. They were all, with the exception of the corner house, under roof and almost finished, almost completed. The walls of the corner house were up two stories; the south wall was up above the cellar. It was run up so as to leave it in good condition, with the house next to it being up to the second story all around.

Q. State whether or not the manner of payment or delivery of the fund on account of this loan was to be the same as the preceding loans.

(Objected to as leading.)

A. The same agreement or understanding was had in every loan.

Q. What money, if any, was delivered to you or paid to you at the time of the making of the note and execution of the deed of trust?

A. The last loan?

Q. Yes, sir.

A. None whatever. There was no money paid to me after Janu-

ary on the part of the agents. The entire amount of money
98 advanced to me during the whole time was less than $15,000.00; I think $14,700.00—something like that—was the entire amount.

Q. Do you know whether or not the defendants paid off this claim of Mr. Adams upon the property at the time in accordance with their agreement?

(Objected to because the witness has not stated the agreement such as the question contemplates.)

A. No, sir. I know that Mr. Adams was not paid as he should have been, and I could not state when he was paid from the fact I could never learn from the agent of the company even when the taxes were paid.

Q. In your statement made a few moments ago that the money received from the agent of the company did not exceed $15,000.00 state to the examiner whether or not you included in that the cash paid to you, also all the money paid to Adams, and all moneys paid on account of your orders.

(Objected to as leading.)

A. It included everything that I got from him or knew of his paying.

Q. Mr. Balloch, in your bill you state that all the moneys and payments aggregate the total sum of $14,725.15. I now wish to ask you if that is the amount received on account of these loans.

(Objected to as leading.)

A. I stated a few moments ago that it was less than $15,000.00; about $14,700.00.

Q. Do you or do you not mean to say in that answer that that covers all money paid to you or on your orders or to Mr.
99 Adams on your account out of the whole three loans made by the defendant insurance company prior to the transfer of the property by you to the defendant?

(Objected to because leading and for the further reason that it is a cross-examination of the complainant's witness.)

A. Yes, sir.

Q. Now, Mr. Balloch, I am going to read you a paragraph of the bill and ask you to state the facts in relation to it. (Here counsel for the defendants object to this mode of examination of complainant in his own behalf.) The sentence is this: "And that thereafter, to wit, on or about the 25th of February, 1880, the said defendants, having in their possession $20,474.85, utterly refused to pay the same to the complainant or any part thereof, notwithstanding their agreement, as hereinbefore recited, so to do."

(Objected to because improper and for the further reason that it is leading.)

A. They did so. If you want me to answer more fully I will do so. That the action of the company's agent so embarrassed me that

persons began pressing and suing me, and, being fearful that neither my creditors nor myself would be able to realize anything out of it, I made the transfer to the company, thinking that by so doing I would save my creditors and myself money, with the understanding before I made that transfer——

Mr. MOULTON: Wait a minute. I ask the examiner to read to the witness his answer as far as it has been taken down.

(Counsel for the defendants object to the interruption of the witness by his counsel, and further object to the examiner's
100 reading to the witness what he has stated, as now requested by his counsel; whereupon, the objection of the counsel for the defendants being noted, the examiner concludes to read the witness' last answer, which is accordingly done.)

The WITNESS: I wish to make this statement: That before I made every effort I could to induce their agent to allow me to go on with the building and improvements, and among other offers I made to him was that he employ a man at my expense to superintend the construction of those buildings, and he would not agree to that; and then I made the transfer to the company, with the understanding that, after the completion of the houses and the sale thereof and certain debts were paid, of which I gave him a list, I was to receive three-fourths of the profits and the agent one-fourth of the profits.

Q. Mr. Balloch, in your answers you stated that, owing to certain facts, you became alarmed that you and your creditors might lose on account of the improvements. Will you be kind enough to state to the examiner what facts you refer to?

A. That he would not advance the money as agreed upon, and that persons began suing me. I do not think persons prior to that had gotten judgment; they did directly afterward. I wish further to state that I gave Mr. Hooper a list of all the outstanding debts against me in regard to this property, which he agreed to pay as the agent of the company.

Q. Mr. Balloch, state whether or not you ever received any proposition from the defendant the insurance company or the defendant Hooper in relation to the transfer of the property to them;
101 and, if so, what.

A. Mr. Hooper sent after me a number of times and asked me to make this transfer to him, and I, after several conversations with him, desired him to pay certain indebtednesses, all of which he refused with the exception of one, when I made the transfer that he desired me to make.

Q. Mr. Balloch, were these propositions on the part of the agent, Hooper, made to you prior to any suggestions of the kind from you or after?

(Objected to as leading.)

A. Yes, sir.

Mr. MOULTON: I request the examiner to read the question to the witness.

(Counsel for the defendants object to the reading. The examiner concludes to read, which is accordingly done.)

The WITNESS: They were made prior. He first intimated to me that I should make the transfer to him.

Q. Now, Mr. Balloch, will you state the contract and agreement made between yourself and these defendants at the time and upon which you conveyed the property to defendant Hooper, and also state whether or not it was in writing?

(Objected to for the reason that the witness undertakes to state the consideration for this conveyance, and because, in effect, a cross-examination of complainant's own witness.)

A. The verbal agreement made between the parties and myself was that they should immediately complete the work on the
102 buildings, settle with the parties—of whom I gave him a list—that had claims against me, pay me three-fourths of the net profits, and to retain one-fourth.

Q. Mr. Balloch, after the houses were to be completed what was to be done with them?

(Objected to as leading.)

A. We could not divide the profits very well without selling.

Q. Just state fully——

A. The property was to be sold to the best advantage and the profits were to be divided as heretofore stated.

Q. Mr. Balloch, please state whether or not any deductions were to be made from the price or the fund derived from the sale of these houses on account of the loans by the insurance company.

(Objected to because leading and a cross-examination of the complainant's own witness.)

A. I said that after paying all outstanding claims against this property I was to receive three-fourths of the net profits and the agent of the company was to retain one-fourth.

Q. Please state to what you refer as outstanding claims against the property.

A. I mean pay off all the loans and any other indebtedness against the property.

Q. Well, Mr. Balloch, please state whether or not you mean by that answer that these moneys paid to you by the defendants prior to the transfer of the property to them and the money necessarily expended in completing said houses should be deducted from the gross sum realized at their sale and the balance divided be-
103 tween yourself and the defendants as net profits in the manner stated.

(Objected to as leading and a cross-examination of the complainant's own witness.)

A. I mean after paying the loans, paying Adams, and whatever else might be outstanding against the property and then after selling to the best advantage, the profits to be divided in the way stated.

Q. Mr. Balloch, do I understand you to mean in your answer just given that the $35,000.00 obtained from the defendant insurance company was to be added to the money paid Adams and to other bills outstanding, and that aggregate of about $48,000.00 deducted from the amount realized at the sale?

(Objected to as leading and a cross-examination of the complainant's own witness.)

A. I am so dumb I cannot appear to understand it.

(The last question is read to the witness by the examiner, counsel for the defendants objecting.)

A. Yes, sir.

Q. Mr. Balloch, was or was not this Adams debt to be paid out of these loans from the insurance company as Mr. Hooper drew and received the money?

(Objected to as leading and a cross-examination of the complainant's own witness.)

A. No, sir.

(The last question is read to the witness by the examiner.)

The WITNESS: I mean this: that only such portion of the Adams debt as was covered by the property that was improved.

Q. Was or was it not a part of your contract with the de-
104 fendants that out of the last half of each loan they were to pay off the Adams debt resting upon the property included in the deed of trust?

(Objected to as leading and a cross-examination of the complainant's own witness.)

A. The trust given to the company was to be a first trust of $2,000.00, and, of course, they would have to pay it out of that money as they advanced it on the property, as they advanced on certain lots. Of course they saw that the indebtedness to Adams was paid. If it was not it would not be a first trust.

Q. Then do you mean, Mr. Balloch, that your indebtedness to the defendant the insurance company is the $35,000.00 included in these three deeds of trust, and also the $9,000.00 paid Adams?

(Objected to as leading and a cross-examination of the complainant's own witness.)

A. Yes, sir.

Q. Mr. Balloch, will you explain to the examiner your present answer in which you say that your indebtedness to the defendant is about $48,000.00 in connection with your previous answer

given in your examination in which you stated that you had received but $14,000.00, that that was all that was delivered to you?

(Objected to as leading and a cross-examination of the complainant's own witness.)

A. $14,725.00 was every dollar that I received from the company from first to last, and when this transfer was made they had
105 in the neighborhood or upwards of $20,000.00 balance that I borrowed from them.

Q. Now, Mr. Balloch, state whether or not at the present time you owe the defendant the insurance company anything but the $14,725.00 paid to you and on your order, and the money necessarily paid and actually expended in the completion of the houses.

(Objected to as leading and a cross-examination of the complainant's own witness.)

A. That is every cent that I owe them, and whatever they brought in advance of that would belong to me.

Q. Mr. Balloch, at the time of your transfer of these houses to the defendant what was the contract or agreement as to the completion of them as to point of time? When were they to be completed?

A. He was to commence immediately and complete the buildings.

Q. State, if you know, in point of fact when they completed the buildings.

A. He did not do anything to speak of to the houses for considerably over a year, and they were not completed in the neighborhood of two years.

(Adjourned to Thursday, the 18th inst., same hour and place.)

106 OCTOBER 18, 1883.

Met pursuant to adjournment at the office of H. B. Moulton, Esq., 701 7th street.

Present: H. B. Moulton, Esq., solicitor for the complainant, and Job Barnard, Esq., counsel on behalf of the defendants; also Mr. Terry.

Whereupon the examination of ROBERT A. BALLOCH resumed.

By Mr. MOULTON:

Q. Mr. Balloch, since the close of your examination the other day have you had an occasion to look over your testimony as then given?

A. I have, sir.

Q. Do you desire to make any corrections in it?

A. I do, sir.

Q. Will you please proceed to make such statements and corrections as you think proper to be made?

A. I wish to make a correction where I stated the amount I owed the company in one or two places towards the last of the testimony.

Q. What are they?

A. Where I said I owed the company different amounts, from 35,000 up to 40,000 odd dollars, I wish to correct and make this statement in regard to what I am indebted to the company. In the first place, I owe them $14,725.15, the total sum that was ever paid to me on the part of the company. That was the only sum that was ever paid to me.

Q. Go on.

A. Now, in addition to that amount, I wish to state that I owe the amount of money necessary to pay off all taxes due on the property covered by the 18 deeds of trust given the Massachusetts Mutual Life Insurance Company to secure the loan.

107 Q. Do you know about what that is?

A. Well, I do not know as I could state exactly what that amount is.

Q. All right, go on with the next item; the bills will show.

A. Second, I owe the amount due Adams on account of the purchase-money at the time I made the deed to Mr. Hooper, as agent of the company, with interest thereon up to the date of transfer.

Q. That is, providing Mr. Hooper had paid him?

A. I owe the amount due Adams on account of the purchase-money at the time I made the deed to Mr. Hooper, with interest upon the same up to the date of transfer. That is as clear as I can put it. It covers everything. I also owe the amount necessary to finish the buildings in an economical manner at the date of the transfer.

Q. About what would that be?

A. Less than $24,000, sir. I estimated it would be a little over the amount that Mr. Hooper had in his hands of the loans at the date of transfer, and then interest at 8 per cent. on all advances received from the company from the date of receipt to date of transfer.

Q. What do you mean by advances? Do you intend to refer to this $14,725 received by you or to what?

(Counsel for the defendants object to the question as leading.)

A. I mean to refer to the moneys that had been advanced to me by the agent of the company, and that is all.

Q. Mr. Balloch, will you be kind enough to state what it would cost per house to finish the improvements?

108 A. Well, I will answer that in this way: That the five west houses on "S" street I estimated and got estimates for the completion of; the five west houses on "S" street, $400 apiece, and the east house on "S" street, on the corner of the alley, $500.

Q. The east house?

A. The east house on "S" street. I estimated the corner house on Sixteenth and "S" at $2,500; the one next to it, $900; the tow next to that, at $500 apiece; seven at $200 apiece.

Q. That makes all, does it?

A. That makes all.

Q. Mr. Balloch, those sums make $8,300, as the amount necessary to complete the houses?

A. Yes, sir.

Q. How do you explain your previous answer, in which you said it would take $24,000 to complete the houses in connection with this?

A. I want to add to that $9,946.66.

Q. For what?

A. The amount due Adams.

Q. In your testimony a moment ago you said you owed the company $14,725; that you owed the amount necessary to pay the taxes; that you owed the amount due Adams, $9,946.66, and that you owed, in addition thereto, the sum of $24,000 to complete the houses. Did you mean that?

A. I do not know as I understand that question.

(The preceding question is read to the witness by the examiner.)

A. No, sir; I did not mean that.

Q. Tell us what you did mean.

A. About $37,171.81.

Q. Is what?

A. Is the total amount that I estimated I owe the company. I make that amount in this way: Taxes, about $4,200; Adams, $9,946.66; estimated amount to complete the buildings, $8,300, and the total amount that I received from the company, $14,725.15, making in all a total of $37,171.81.

109

Q. Now, Mr. Balloch, will you slowly state what property and the value of it you conveyed to the defendants and they still hold?

A. Six houses on "S" street, the lots numbered from 18 to 23, in my division of square 177.

Q. Give the value of these six houses—of each one when completed.

A. About $70,000.

Q. For the six houses?

A. Oh, no.

(Question is read to the witness by the examiner.)

A. About $18,000 for the six; about $3,000 apiece.

Q. Now, sir, the others—the value of them.

A. The corner house——

Q. What corner?

A. The corner of Sixteenth and "S" street; about $8,000.

Q. Well?

A. And the other 11 houses $3,500 apiece. $9,000 was offered for the corner house after it was sold, so I am told.

Q. Well, now, sir, give us the value of the vacant ground—the number of lots and value—the value of the vacant ground; the number of feet.

A. I do not recollect now exactly by reason of the alleys and

things. I can tell you, though, exactly. There is nearly
110 11,000 feet of ground in them—no; not quite. There is about 10,400 feet in those lots on Swan street.

(The question is read to the witness by the examiner.)

A. There is about between 10,300 and 10,400.

Q. The next thing is the value of it.

A. I should think it ought to be worth $4,200, $4,100 or $4,200.

Q. Mr. Balloch, these various sums given by you aggregate $68,700. State to the examiner whether or not the defendants have paid to you the whole or any part of the difference between $68,700 and the $37,171.81, the amount you owe them; and, if so, what part.

A. Never one cent beyond $14,725.15.

Q. Have they paid you any part of the difference between these two aggregates? Have they paid you any part of the difference between these two sums? There is a difference of $31,528.19. Have they paid you any part of that?

A. No, sir.

Q. Mr. Balloch, state to the examiner whether or not you have at any time applied to the defendants for a statement of money expended by them and an adjustment and statement of this balance due you; and, if so, with what success.

A. I asked several times Mr. Hooper to give me a statement and he gave me a memorandum—I think I gave it to you—of the amount he said that had been expended and that had brought him in debt, and that is all the statement I could ever get out of him, any way.

Mr. BARNARD: Brought Hooper in debt?

A. Yes, sir.

111 Q. What do you mean by that, Mr. Balloch? Do you mean that Mr. Hooper claimed he had not funds enough to complete the houses, that your balance of twenty-odd thousand dollars in his hands was insufficient?

(Counsel for the defendants object to the question as leading.)

A. He said to me that he had lost over $5,000, and I understood that it had cost him that in advance of the amount of money that I had left in his hands when the property was turned over.

Q. Is this the statement to which you refer as being the only statement that you were able to obtain from the defendants or that you ever did receive from them in relation to this transaction (handing witness paper)?

A. Yes, sir; and after repeated enquiries that was all I could ever get out of him.

Q. Is this statement that he gave you anything like a correct statement?

A. I should not think it was.

Q. These loans secured by deeds of trust amounted to some $35,000, did they not?

A. Yes, sir.

Q. The loans from these defendants secured by deeds of trust amounted to $35,000, about?

A. These three loans amounted to $35,200.

Q. And not $41,700, as in this statement of his?

112 A. No, sir.

Q. I see the second item in this statement is $22,500. Is that what Mr. Hooper claimed to be the cost of completing the houses?

(Counsel for the defendants object to the question as leading.)

A. Yes, sir; that is what I understood him to say.

Q. Did he ever at any time give you the tax bills; the statement of the taxes he has credited here as amounting to $4,500?

A. No, sir.

Q. The last item bears the name of Adams opposite to it?

A. Yes, sir.

Q. What do you understand to be intended by that item of $5,700?

A. That is the money he paid Adams.

Q. Have you ever seen Mr. Hooper write?

A. Yes, sir.

Q. Is that his signature to that paper?

A. No, sir; I wrote that. "Received the last day of May, 1882, statement from William R. Hooper."

Q. Is the body of it in his handwriting?

A. Yes, sir.

Q. You received it from him in person?

A. Yes, sir.

(Counsel for the complainant offers in evidence the statement of Mr. Hooper, which is marked "Ex. C. L. H. No. 4." A copy is hereto annexed, the original to be produced at the hearing.)

113 (Ex. C. L. H. No. 4.)

Received last of May, 1882.

Loans	41,700
Building	22,500
Interest	3,800
Taxes	4,500
Adams	5,700
	78,200

Statement from Wm. R. Hooper.

Q. Mr. Balloch, will you be kind enough to state whether, in the matter of this transfer of this entire property that you made to the defendant Hooper, the agent of the company, you applied to Hooper for the privilege or purpose of making a transfer, or did he apply to you?

A. He applied to me, sir, and sent for me on several different occasions in regard to making the transfer to him.

Q. State whether or not you ever had any conversation with him in which you demanded any portion of the balance due you and informed him that you were unable to go on with the work unless he paid over to you the money that he held of yours, or that in substance.

(Counsel for the defendants object to the question as leading.)

114 A. You want to know from me whether I made any demands on Mr. Hooper prior to making that transfer to have him advance me money. I, at various times, before ever having thought of making this transfer to Mr. Hooper, applied to him to advance me the money as per agreement, and that he over and over again refused to grant; and I even made this offer: that he should put a man on the building to superintend the work at my expense, and he would not grant it; and then, having possession of the property by deeds of trust and holding my notes, I was entirely unable to do anything, and was compelled, under the circumstances, to agree to his request, frequent request, to transfer the property to him. I could not make any other loans, they having the trusts on the property.

Adjourned to Monday, the 22nd instant, at 1 o'clock and same place.

115 OCTOBER 22, 1883.

Met pursuant to adjournment.

Present: H. B. Moulton, Esq., solicitor for the complainant, and Messrs. Edwards & Barnard, solicitors for the defendants; also Seth A. Terry, Esq.

Whereupon the examination of ROBERT A. BALLOCH resumed.

By Mr. MOULTON:

Q. Mr. Balloch, at the time of the giving of this first deed of trust or making this first loan from the defendants, involved in this suit, were you at that time indebted to the defendants or either of them?

A. No, sir.

Q. Mr. Balloch, state to the examiner whether or not you put any of your private funds into this improvement; and, if so, what amount.

A. A little over $7,000, sir.

Q. Have the notes that you gave the defendants for these three loans been returned to you?

(Counsel for the defendants object to the question as leading.)

A. They have not, sir.

Q. Then, as I understand your general testimony, the defendants still hold your notes for $35,200 and hold this property valued at $68,000 or $69,000, as also private funds of over $7,000 that you invested in it, do they not?

(Counsel for the defendants make the same objection as last aforesaid.)

A. They do, sir.

116 Cross-examination.

By Mr. EDWARDS:

Q. You stated, Mr. Balloch, that you now reside at Rockville, Montgomery county, Maryland. How long have you resided at that place and with whom do you reside?

A. I moved to Rockville in March of this year. I reside with my sister; my sister and I live together.

Q. What is your sister's name?

A. I don't know whether that has anything to do with this case—what my sister's name is.

Mr. MOULTON: Give it to him.

The WITNESS: Her name is Mrs. E. B. Gillis.

Q. Of whom does your immediate family consist?

A. One child that I live with.

(The question is read to the witness by the examiner.)

A. There are two of us living in the house with a servant.

Q. Have you a family of your own?

A. I have one child; a daughter.

Q. Your wife is not living?

A. No, sir.

Q. Prior to removing to Rockville, I understand you to state that you resided in this city?

A. I did.

Q. For how long?

A. Oh, I resided here twelve or fifteen years, off and on.

Q. When did you first form the acquaintanceship of William R. Hooper, and where?

A. I don't know when I first made Mr. Hooper's acquaint-
117 ance. I cannot answer that question. I have known of him for fifteen or eighteen years. I know I knew him when I made this loan.

Q. During this period that you have known him where did you and he reside?

A. Ever since I knew anything about Mr. Hooper he has resided near Howard university. I have known of him for a long time. I resided in Washington.

Q. Then I understand that you resided in Washington city and Mr. Hooper resided near Howard university, in this District?

A. Mr. Hooper did; yes, sir.

Q. State what was the first business transaction you ever had with the defendant, The Massachusetts Mutual Life Insurance Company.

(Counsel for the complainant objects to the question.)

A. I think in 1876—1877 or 1878—somewhere along there.

Q. What was the character of that transaction?

(Counsel for the complainant object to the question as immaterial and incompetent.)

A. I made loans on some houses at Thirteenth and "Q" streets.

Q. Since I have asked you this question, Mr. Balloch, you have taken from your pocket-book for the purpose of your answer a paper which you now hold in your hand. Please hand me that paper.

A. No, sir. These papers are private memorandums of my own, made to refresh my memory—taken from my books and accounts—and I won't furnish them to anybody.

118 Q. Describe the paper by which you refresh your memory for the purpose of your last answer and which you now have in your hand.

A. I have not looked at the paper.

Q. Did you not look at that paper before answering the question and refer to and study its contents?

A. No, sir; I answered the question before I looked at it.

Q. What does that paper contain?

A. It contains memorandums of some sales, &c., of property at the corner of Thirteen- and "Q" streets.

Q. In whose handwriting is it?

A. I do not know.

Q. Where did you get it?

Mr. MOULTON: I object to that unless you show or will claim that it relates to the subject-matter under examination involved in this suit. If counsel will state it does, I will withdraw my objection.

Mr. EDWARDS: The object of the cross-examination of the witness is for the purpose of this case alone. I cannot advertise our case to complainant's counsel or the purpose of the cross-examination other than I have stated.

The WITNESS: I got it from a man who always kept my books.

Q. What is that man's name?

A. His name is Seth A. Terry.

Q. Is he now present?

A. He is, sir.

Q. Is he the same Terry who has been present and noted on the minutes of the examiner as present at each session of this testimony?

A. Yes, sir.

119 Q. When did you obtain that paper from him?

A. I do not know exactly.

Q. Before the commencement of this suit?

A. No, sir.

Q. Since?

A. Yes, sir.

Q. How long since?

A. I do not know exactly. I will tell you this, sir, in answer to that question: It is the only paper he has given me that I have had since I have been on the stand. That paper does not have any application to this suit.

Q. Why do you refuse to hand me for inspection this paper?

(Counsel for the complainant objects to the question.)

A. I will say for the reason that it has no reference to this suit whatever, sir, in my judgment.

Q. Read what that paper contains.

(Counsel for the complainant objects.)

Mr. EDWARDS: I object to the interpolation of counsel.

A. I want to make this statement in answer to the question: That I will not read it; that it has no reference in any way, shape, or form to this case.

(The examiner reads the following to the witness at the request of counsel for the defendants:)

"Q. What does that paper contain? A. It contains memorandums of some sales, etc., of property at the corner of Thirteenth and Q streets."

120 Q. You say it relates to the sale of property on Thirteenth and "Q" streets?

A. Yes, sir.

Q. Does it not relate to property on "Q" street near Thirteenth?

A. Corner of Thirteenth and "Q." Property running from Thirteenth and "Q."

Q. Do the houses front on Thirteenth or "Q"?

A. The corner on "Q" and the balance on Thirteenth.

Mr. MOULTON: All this is objected to.

Q. Mr. Balloch, you also hald in your hand, while now under cross-examination, three or four papers.

A. Yes, sir; I have got some more in here.

Q. You are now pulling from your pocket a number of other papers which you have returned to your pocket?

A. Yes, sir.

Mr. EDWARDS (continuing): Now, I wish you to tell me what you hold in your hand.

A. Three pieces of paper, sir.

Q. Is there any writing or any figures on that paper?

A. Yes, sir; a lot of them.

Q. On all of them?

A. On all of them.

Q. You are requested, while under cross-examination, to place those papers in your pocket or where you cannot see them. Will you so do?

A. (Mr. Moulton being temporarily absent.) I will ask my attorney in a minute whether I cannot keep some of these papers in my hands.

Q. Do you refuse to grant my request until instructed by your attorney?

A. I want that question read in the presence of Mr. Moul-
121 ton, that he may say whether I have to dispense with these papers; whether I cannot refresh my mind.

(The question is read to Mr. Moulton, he having just returned.)

Mr. MOULTON: I would suggest to the witness that he comply with the request of counsel and place the papers in his pocket, and if he has occasion during the progress of the examination to refer to them, then do so.

The WITNESS: I will do that, sir.

Q. You have stated that you would not place these papers where you could not see them without being instructed by your counsel; that you wished to know whether you could not use them for the purpose of refreshing your memory. In what way do you expect to refresh your memory while under cross-examination from these papers?

(Counsel for the complainant objects to the question.)

A. In regard to dates and amounts.

Q. Dates and amounts concerning what?

A. Concerning the different transactions. It is not to be supposed that I can remember all the dates and amounts and all transactions that transpired in a business like this and in a business as large as this, and I want to fix my mind from these papers in regard to some data I have on them; that is all.

Q. You say that in 1877 or 1878 you had your first trans-
122 action, you think, with the defendant the insurance company, and that it was a loan on the Thirteenth and "Q" street houses. Do I undertand that about that time you borrowed money from the defendants on these houses as security?

A. All transactions that I had with the company prior to this were settled. I owed them nothing, sir.

(The preceding question is read to the witness by the examiner.)

A. I borrowed money from them on those houses.

Q. How much?

(Counsel for the complainant objects to the question as immaterial.)

A. I do not remember sir, how much.

Q. How many houses were there?

A. I think there were five I made loans on.

Q. You gave your notes, did you not, for the amount of the loans, payable to the order of this insurance company?

A. I suppose so.

Q. Don't you know that you did?

A. Yes, sir.

Q. When did those notes mature?

A. I do not remember, sir; it has been so long.

123 Q. Were they due on the 4th of June, 1879?

A. I do not remember when they were due.

Q. Do not you know that they were not due at that time, Mr. Balloch?

A. No, sir; I do not remember.

Q. Were those notes due when you made arrangements to secure

the loan of $16,000 from the defendant insurance company, as alleged in your bill of complaint in this suit?

A. Were they due?

Q. Yes, sir; at that time.

A. I think they were, sir.

Q. Were they paid?

A. I sold the property subject to these loans and paid all interest on them prior to making this loan—the first loan from the company—this $16,000 loan.

Mr. MOULTON: All this is subject to objection.

Q. Do you not know that at the time you negotiated with the company for this loan of $16,000 the company then held your notes, secured by deeds of trust, on the Thirteenth and "Q" street houses, which were unpaid?

A. I know that I sold the property subject to those liens—whatever was on them—and paid the interest up to the time I sold them.

(The question is read to the witness by the examiner.)

A. I did not consider that I owed them. I had sold the property, transferred them subject to these loans, and paid interest due
124 on these notes up to the time I sold the property.

(The preceding question is again read to the witness by the examiner.)

A. I do not know what you mean; my notes were out.

Q. You say that you sold this Thirteenth and "Q" streets property subject to your notes given to the order of the defendant insurance company for money previously loaned to you by it. When did you make that sale and to whom?

(Counsel for the complainant objects to the question.)

A. Sales were made at different times to—I forget the dates and names of the parties, with the exception, I think, I sold one to a person by the name of Smith. I sold two to Eichorn and one to R. J. Riggles.

Q. What relation, if any, is R. J. Riggles to Seth A. Terry, the party now present?

A. He is a brother-in-law.

Q. Do you recollect making a purchase of two houses on the corner of Massachusetts avenue and Second streets N. E. from the defendant insurance company just prior to or about the time you negotiated for this $16,000 loan?

(Counsel for the complainant objects to the question.)

125 A. Yes, sir.

Q. What was the purchase price of the houses?

A. I forget exactly what the purchase price was. There was one of them the title to which was never good and I never acknowledged it.

Q. Do you pretend to say you are unable to state what you agreed to pay to the defendant for those houses?

A. I do, sir, at this time.

Q. How were you to pay for them? What were the terms of the purchase?

A. Pay so much down and give a trust on them for the balance. I took them at a certain figure. So much was to be deducted out of the loan towards paying for the houses.

Q. What loan?

A. The loan that you speak of.

Q. The $16,000 loan?

A. Yes, sir; you said so.

Q. Was the deed executed to you of the Massachusetts avenue and Second street houses?

A. There was.

Q. And you executed a deed of trust to secure the company the deferred purchase-money?

A. Yes, sir.

Q. And the cash payment agreed upon was to be deducted from the $16,000 loan?

A. From the amount of the loan; yes, sir.

Q. How much was that cash payment?

A. I forget.

Q. Cannot you tell?

A. No, sir.

126 Q. Did you make any entry of it in any book?

A. I did, sir.

Q. In what book?

A. In an account book.

Q. Kept by whom?

A. All my books were kept by Seth A. Terry.

Q. The party now present?

A. Yes, sir.

Q. Where is that book?

A. The book is in the possession of my attorney.

Q. How long has it been in his possession?

A. Several months.

Q. Before you filed the bill in this case?

A. About the time, I judge.

Q. When did you last see it?

A. Saw it about an hour ago, I guess. I was looking on it when I came in here.

Q. For what purpose?

A. To refresh my memory as to dates, &c.

Q. Does this book show your transactions with this company?

A. Every dollar, every cent.

Q. And it has been in the custody of your counsel ever since you have been testifying in this case, has it?

A. Yes, sir.

Q. I wish you to turn to that book and tell me the amount of that cash payment.

A. You want me to turn to it?
Q. Yes, sir.

Mr. MOULTON: I object to the production of this book. It is not the book of original entries. I am perfectly willing and now tender to counsel the book of original entries if he desires it.

(The witness says to Mr. Terry, "Give me that book," referring to a book which is in the hands of Mr. Terry, being the
127 book referred to in the question and his answers thereto.)

Mr. MOULTON: I tender to counsel the book of original entries.
Mr. EDWARDS (to the witness): Read from the book which you have just asked Mr. Terry to hand you, said book having a black cover and being about eight inches square, the entry therein contained showing what was the cash payment due to the defendant company on account of the purchase of the Second street and Massachusetts avenue houses which you say is therein entered. This book is now on the floor at the feet of your counsel.
The WITNESS: Mr. Moulton, will you be kind enough to hand me that book?
Mr. MOULTON: I desire to state to the witness that he is not under obligation to read anything from that book. That is not the book of original entries, and the witness is not obliged to comply with the direction or request of counsel. He can do as he pleases.

(Counsel for the defendants object to the interpolation of counsel for the complainant and statement in the presence of witness while under cross-examination.)

The WITNESS (holding the book referred to in his hand): I won't tell, sir; the amount I have forgotten.

Q. Turn to the page in that book which you have stated contains your financial transactions with this company and tell me what was the cash payments agreed to be made by you to the defend-
ant company on account of the purchase of the Second
128 street and Massachusetts avenue houses, which you state was to be deducted from this $16,000 loan referred to in your bill of complaint and testimony.

(Counsel for the complainant objects to the question.)

A. I do not know.

(The preceding question is read to the witness by the examiner.)

A. I do not remember what the amount was at all.
Q. You have stated that this book would show?
A. Yes, sir.
Q. Have you examined the account in that book showing, as you state, your financial transactions with this company, so that you might answer this question?
A. I have not looked.
Q. You are now again requested to examine that book and tell

me what is the amount of this cash payment we have been speaking of.

A. If you will give me the book of original entries I will tell you.

Q. Why will you not, as you stated you could do, tell me the amount from this book?

A. Because I understand from my attorney that it can only be given from original entries.

Q. Is that your reason?

A. Yes, sir.

Q. You have stated that this book contains this entry and that this book was kept for you by Mr. Seth A. Terry, have you not?

A. I understand in law that nothing but original entries will be taken.

Q. Who kept that book that you now hold?

A. Mr. Terry.

129 Q. Under whose direction?

A. Under mine.

Q. It is your book, is it not?

A. It is my book and I have had it until the time it was put in the hand of this gentleman. I have had it all the time since the transaction.

Q. And this is the book that you referred to for the purpose of refreshing your memory about an hour ago, is it not?

A. Yes, sir; it is good enough for me but not good enough for the court.

Q. Well, I want you to tell me something about this book and its contents. If I desire it, why have you any objection?

A. This testimony has got to go to the court, and any information I give you from this book will not amount to anything.

Q. Why not?

A. Because nothing but original entries are taken in court?

Q. Is what there is contained in that book true or not?

A. True, sir.

Q. Then why is it not testimony?

A. Because the court will not look on it as original entry.

Q. Is that your reason?

A. That is my reason.

Q. Is that your only reason?

A. That is what the lawyers tell me.

Q. Does not that book show entries of moneys received by you from the defendant company on account of the $16,000 loan referred to in the bill of complaint and your testimony in this case?

A. It does.

Q. Now, I want you to turn to the page in that book show-

130 ing *showing* those entries and read what you have therein.

A. I cannot, sir, unless I have the original book.

Q. When were the entries made in that book?

A. Immediately after the transactions occurred; every day and night.

Q. Will you now produce that book or allow me to look at the

entries therein contained of your financial transactions with this company?

A. I will let you have the original, sir. I tender you the book of original entries.

Mr. EDWARDS: (After the preceding question has been read to the witness by the examiner.) I want a direct refusal—no evasive answer.

The WITNESS: I want to tender the book of original entries.

Q. When did you last see what you call the book of original entries of this transaction?

A. Saw it just now, here.

Q. How long before that?

A. Before I have seen it often.

Q. State when and where.

A. At different times. I cannot give the days and dates. I have seen it dozens and dozens of times when the entries were transferred from that to the account book.

Q. Have you seen that book which you call original entries since you filed your bill of complaint in this case; if so, when and where and under what circumstances?

A. Yes, sir; in going over this book that I have in my possession, comparing and seeing if the entries were exact duplicates as regards the amounts and everything of the kind—to see if they exactly agreed—I have seen it often in that way.

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Q. Since this bill was filed? If so, in whose presence?

A. No, sir; I don't know as I have made any corrections or comparisons since. I don't know.

Q. Do not you know as a matter of fact, Mr. Balloch, that you have not seen this book which you state is the book of original entries since this suit was commenced?

A. No, sir; I do not know that as a fact.

Q. Have you any recollection that you have seen it, whatever?

A. Yes, I have seen it.

Q. When and where?

A. I cannot remember or the circumstances connected with it.

Q. Who had it?

A. Mr. Terry had it. I don't know but what Mr. Moulton had it.

Q. Whose book is this book which you style the book of original entries?

A. Whose book is it?

Q. Yes.

A. I suppose it is mine, as far as the entries pertaining to this business are concerned.

Q. Have you ever had it in your possession any length of time?

A. Yes, sir; I think so.

Q. Did you ever keep it over night?

A. I don't remember that I did.

Q. Do you not know that it has always been in the custody of Mr. Terry or under his control?

A. Don't I know it has always been in his custody?

Q. Yes, sir.

132 A. I won't be sure, but I think Mr. Moulton had that book for some time.

Q. Were your transactions with the defendant Hooper respecting the loans in the bill of complaint carried on by you in person or did any one represent or act for you in the matter?

A. No, sir.

(The question is read to the witness by the examiner.)

A. Yes, sir; Mr. Seth A. Terry did.

Q. Acted for you?

A. Yes, sir.

Q. You state that Mr. Terry reported to you and entries were immediately made in this book of your transactions with Hooper.

A. Yes, sir.

Q. And you were familiar with them?

A. Perfectly, sir. I kept the book at my house myself.

Q. What time?

A. Nearly all the time.

Q. What, if any, transactions appear in any of these books concerning interest on the loans made to you by the company in 1877 or 1878 on the security of the Thirteenth and "Q" street houses.

(Counsel for the complainant objects to the question.)

A. In January, 1879, I owed Mr. Hooper $562.50. I sold two houses on Thirteenth street to Eichorn, the ham butcher, on which I got $450 in cash. That $450 in cash was paid to Mr. Hooper

133 as interest, and in March, I think, was paid $100, making $550, which left a balance, I think, of about $12.50 that was paid to Mr. Hooper afterwards, and that squared up all the loans as far as it went on the Thirteenth-street property. I owed him nothing when the negotiations for the loans were made on the Sixteenth-street property. All prior negotiations were settled, as far as I was concerned.

Mr. EDWARDS: You have made this statement before and it was not in response to my last question. The examiner will please read the question.

A. (After reading of the last question by the examiner:) They both had entries of all transactions.

Q. Do I understand you to say that these books contain entries in respect to interest paid or allowed you as a credit on the loans made to you by the company in 1877 or 1878 on the security of these Thirteenth and "Q" street houses?

A. I do not know whether that book does or not, in regard to the Thirteenth-street loan.

Q. Do you not know that entries appear in these books or were made by your agent, Terry, respecting interest due on account of the Thirteenth and "Q" street houses subsequent to the date of the $16,000 loan?

(Counsel for the complainant objects to the question.)

A. I do not think there is any transaction in that book as to the date of these loans.

Q. I want you to look at both of these books, one of which you say contains original entries and the other a duplicate
134 thereof, and tell me if you do not credit yourself with interest paid to this company on account of the loans on the Thirteenth street and "Q" street property subsequent to the date you obtained this $16,000 loan?

A. (Looking at book of original entries:) I do not see any, sir; no, sir.

Q. Does that book contain any entry of drafts endorsed by you and the drafts sent by the company to your order, as you state, on account of this $16,000 loan?

A. (After examining book of original entries:) I cannot find it now.

Mr. MOULTON: You do not find it?

A. No, sir.

Q. Do you not know that the defendant the insurance company forwarded a draft to your order on or about June 4th, 1879, of that date, on account of this $16,000 loan of $7,418.50, and that you endorsed it?

A. If they have got the note with my endorsement, of course I received it.

Q. What do you say about that?

A. If they have my note endorsed to Mr. Hooper——

(The preceding question is read to the witness by the examiner.)

A. From me to Mr. Hooper?

Q. I am not speaking to whom you endorsed it, but of the fact.

A. I endorsed a draft of that amount to Mr. Hooper June 4th.

135 Q. Did not this company also forward a draft, on or about July 9, in the same year, and bearing that date, to your order, for $7,200 on account of this $16,000 loan?

A. I think they did, sir; and I endorsed it payable to Mr. Hooper's order.

Q. Do you not know the cash payment that you were to make on account of the*se* Second street and Massachusetts Ave. houses and which was deducted from this loan of $16,000 under an agreement, as you stated, was the sum of $800?

A. I endorsed at that time that draft payable to Mr. Hooper, but I do not acknowledge that $800, because the title was not good to the property they deeded me.

(The preceding question is read to the witness by the examiner.)

A. I think that that was the amount that was to be deducted from the loan.

Q. Now, don't you also know that the two drafts you mentioned and this cash payment of $800, forwarded to you, as stated, on account of this loan, left a balance of $581.50, and that this balance

was also deducted from the loan that they sent to pay interest then due on the loan secured on the Thirteenth and "Q" street houses?

A. How much interest do you say?

Q. $581.50.

A. No, sir; I do not acknowledge it at all, that it was done with my consent.

Q. Do you not know that it was deducted from the loan and you were so informed at the time?

136 A. It may have been. I may have——

Q. How do you account for a draft being sent to you by this company on the 4th of June, 1879, to your order, on account of this loan, for the sum of $7,418.50? How was that sum ascertained; do you know anything about it?

A. Yes; I would know a good deal about it if you would let me look at my memorandum. You say I cannot refresh my memory. You cannot expect me to remember every dollar and cent without looking at my memorandums.

Q. Would these memorandums you speak of furnish you this information?

A. They might.

Mr. EDWARDS: I object to your looking.

The WITNESS: I made them all myself, without any instruction. You understand that?

(The following question, heretofore put to the witness, is read to the witness by the examiner: "How do you account for a draft being sent to you by this company on the 4th of June, 1879, to your order, on account of this loan, for the sum of $7,418.50? How was that sum ascertained—do you know anything about it?")

Mr. EDWARDS: What answer have you to make to that question as repeated?

A. I cannot answer that question, sir, without further reference to my books.

Q. Look at your book and then answer. You have one in your hand which contains original entries and this black book is also on the table. I understand these are the only books, as

137 you state, which contain your financial transactions with this company; are they not?

A. I cannot answer how Mr. Hooper or the insurance company make up their balance; that balance of $7,200, I believe.

(The preceding question is read to the witness by the examiner.)

Q. Do you understand the question, Mr. Balloch? You are requested to look at the books and state what entries they contain of the receipts by you from this company of money forwarded to you on account of this $16,000 loan.

A. (Without looking at the books:) In June I received from Mr. Hooper $6,601.50; that was all the money I received from him in that month.

Q. Do either one of these books show that?

A. Yes, sir; they both show it, I judge.

Q. Turn to the page in either and read these entries or the entries making this amount.

A. (Without looking at his books:) I further state that in July of the same year I received $3,009, and in August I received $780 and subsequently I received $1,376, and in October $614, and November $200, and in December about $1,900, and in January $215, making a total of $14,725.15; that was the total amount of money that I ever received from William R. Hooper, as agent of the company.

Q. This last question remains unanswered. I again ask you to turn to these books and read the entries therein, if any, showing the amount credited to the defendant the insurance company

138 for moneys sent to you by draft or otherwise on this $16,000 loan. These two books are now on the table before you.

A. I cannot make answer to that without giving a complete and entire statement of my whole transactions on paper. I cannot carry these questions in my mind and these amounts of money.

Q. You have stated that all of your financial transactions with this company, and particularly the transactions of the loans set out in your bill of complaint, are entered in these two books. I confine my question to these entries and do not ask you to answer on your memory. Now, I again ask you to read the entries in either of these books showing the moneys or drafts sent to you by the defendant company on account of this $16,000 loan.

A. I cannot find that in this book of original entries.

Q. Look at the other book and say if they are there.

A. I understand that the other won't be taken in a court of record.

Q. What other relation, if any, did Mr. Seth A. Terry bear to you concerning the property in controversy in this suit?

A. None whatever, only as an employee.

Q. He was in your employ, then?

A. Yes, sir.

Q. At a stipulated salary?

A. Partly so.

Q. At what salary?

A. And he was to receive a stated commission on the sale of each house.

Q. What was the amount of that commission?

(Counsel for the complainant objects to the question as immaterial.)

139 A. I think it was $250 a house.

Q. Are you sure of that?

A. I think that was the amount, sir.

Q. What salary was he to receive?

A. Oh, it was a trifling salary. I have forgotten the arrangement I made with him. I did not owe him anything when we quit.

Q. You state in your bill of complaint that on or about the 11th of October, 1879, you obtained a second loan from the defendant

company amounting to $10,200. How was that amount forwarded to you by the company?

A. Forwarded by draft, sir, I believe.

Q. Was there more than one draft forwarded on this loan?

A. I do not recollect, sir.

Q. Will not these books show?

A. I suppose they will.

Q. Turn to them and state.

A. I looked for that in this book, but I cannot find it. In regard to the other one, I answer the same as before, that it would not be taken.

Q. Did you not on or about the 17th day of October, 1879, receive a draft from this company payable to your order on account of this $10,200 loan for $4,105.08, which you endorsed?

A. If I endorsed it, I got it.

Q. You are asked whether or not you did receive such a draft.

A. Is the draft there?

Q. What is your answer to this?

A. If you will let me look at that receipt there I will tell you whether I got it or not. (After examining receipt:) Yes, sir; I endorsed a draft to Mr. Hooper.

Q. Now, I ask you, if you did not also receive from this company a draft dated December 24th, 1879, to your order, on account
140 of this loan, for $4,453.58?

A. (To Mr. Edwards:) Have you got those other receipts there?

Mr. Edwards: I have no other receipts and have not seen any.

The Witness (looking at his small book of original entries): I cannot find that here either.

Q. Do you not know that a credit was given to you with your consent of $416.66 as due on account of the cash payment agreed to be made by you to the company on the Massachusetts avenue and Second streets houses, and that the same deducted from this $10,200 loan?

A. I do not remember now, sir.

Q. Do you not know also that at this time a further credit was given to you, which was deducted from this loan of $578.26, being interest due from July 1st, 1879, on your notes then held by the company?

A. I do not remember now, sir.

Q. Do you not also know that from this loan we are now speaking of there was also deducted with your knowledge and consent a further sum of $646.42, being interest also due to November 1, 1879, on your notes, to the order of and held by this company?

A. I do not remember now, sir, the particulars about it.

Q. And do you not know that these two drafts and these two items, two for interest due and the others for the cash payment, make the sum total of $10,200, being the loan negotiated from the company by you on or about October 17th, 1879?

A. No, sir; I do not know it.

Q. Add them up and see if they do not make that.

A. (Mr. Edwards having read over the amounts set out in the previous question.) I know that those five amounts make $10,200.

141 Q. The next loan stated in your bill made to you by the company was $9,000, on or about February 17th, 1880. How did the company forward this money to you?

A. I suppose by drafts, sir, as usual.

Q. Payable to your order, were they not?

A. I won't be positive of that. Sometimes they came to the order of Mr. Hooper and sometimes to my order.

Q. Do you not know that every draft forwarded to you by the company on account of these loans were payable to your order alone?

A. I do not think every draft was.

Q. State which one was not.

A. I cannot state which one, but I think that one or two drafts came directly to Mr. Hooper's order and not mine.

Q. Did you not receive from the defendant the insurance company a draft to your order, dated February 17th, 1880, on account of this $9,000, for $6,750?

A. (After examining receipt:) Yes, sir.

Q. Did you not also receive on or about the 15th of April, 1880, another draft to your order from the company for $87.65 on account of this loan?

A. Never, sir. I do not remember ever receiving such a draft.

Q. What was the amount, if anything, due by you to this company for interest on your notes it then held at the time this $9,000 was negotiated?

A. I do not know as I can tell exactly, sir.

142 Q. Do you not know that the interest on your notes then held by the company, due May 1, 1880, was the sum of $1,412.35, and that that sum was deducted from this $9,000 loan on account of interest due at that time to the company?

(The question is objected to by counsel for complainants.)

A. No, sir; I cannot recollect the amount of interest there was due to the company.

Q. What other transaction, if any, had you with this company about the time of the negotiation of this $9,000 loan?

A. I do not remember any transaction after this last transaction.

Q. I am speaking about the time of this $9,000 loan.

A. The June, October, and February loans—I do not recollect any after those transactions at all.

Q. Did you not at or about the time of the negotiation of this $9,000 loan purchase a house on Sixth street N. W., known as the Howard house, from the defendant the insurance company, and did you not receive a deed therefore from the company?

A. Yes, sir; I received a deed from the company for that.

Q. What was the purchase price for that house?

A. I forget now.

Q. How were you to pay for it?

A. So much to be taken out of the loan and a trust to be given for the balance.

Q. How much was to be taken out of the loans?

A. I forget how much it was, sir.

Q. Will your books show?

143 A. (Examining the small book of original entries): I do not know whether this will or not. I looked over it and I cannot find it. I looked over this just now and cannot see any entry of them.

Q. Don't you know——

A. I know this: That about all the interest I owed them when the property was transferred was nearly $800.

Q. Don't you know that the cash payment agreed to be made by you to the company on account of the purchase of this house on Sixth street and which you agreed to be deducted from this loan of $9,000 was the sum of $750?

A. I disremember now exactly as to the amount, sir.

Q. The first loan bears date June 4th, 1879, and was for the sum of $16,000. How was the interest on this amount payable? At what rate of interest?

A. Do you mean what was the rate?

Q. And how was it payable?

A. At 8 per cent.

Q. Payable?

A. I think it was semi-annually or annually; I forget which it was. 8 per cent.; I know that much.

Q. Did you ever pay any interest on this loan to the company?

A. On the first loan?

Q. Yes, sir.

A. They deducted interest for it, sir.

Q. Did you ever pay any interest to this company on account of this $16,000 loan other than by deductions made on subsequent loans to you by the company?

A. They deducted. In making subsequent loans they deducted interest that was due generally.

144 (The preceding question is read to the witness by the examiner.)

A. I won't be sure, but I do not think so. I do not think I did.

Q. You also gave your notes for the deferred purchase-money due on the Massachusetts avenue and Second street houses?

A. Yes, sir.

Q. Did you ever pay any interest to the company on the notes representing these deferred payments? If so, how?

A. I think they deducted the interest. If there was any subsequent loans, they deducted it from them.

Q. Did you ever pay any interest to the company an account of the $10,200 loan other than its being deducted from subsequent loans obtained by you from the company?

A. I do not think so.

Q. Have you paid any interest to the company on the $9,000 loan?

A. That was the last loan?

Q. Yes, sir; as I understand it.

A. I do not remember, sir.

Q. How was the interest on this loan and the loan for $10,200 payable, and what was the rate?

A. They were all 8 per cent. I forget whether semi-annually or annually.

Q. Do you not know that the interest on all the loans made to you by this company was paid semi-annually?

A. I know the majority were; not all.

Q. Have you ever paid any interest to the company on the notes representing the deferred payments on the purchase of the Sixth-street property, known as the Howard house?

145 A. I paid all the interest that I owed the company up to the date of transfer, with the exception of a little less than $800. That was all I owed them.

Q. State how you made those payments.

A. They deducted them all from me.

Q. How was the interest on the notes representing the deferred payments for the purchase of this Sixth-street house and the $9,000 loan deducted by this company or paid by you?

A. I think the interest on that was a part of the balance of interest that I owed them at the date of transfer, which amounted to a little less than $800.

Q. What was the amount of the interest that you owed the company at the date of the transfer you have mentioned?

A. A little less than $800—$788.

Q. After you obtained this $9,000 loan and gave your notes for the deferred purchase-money for the Sixth-street property, how much interest did you pay the company prior to the transfer of the property to Hooper?

A. I cannot carry all those things in my head.

Q. Will your books show?

A. I do not know whether this little one will or not.

Q. Have you any recollection of ever paying them a cent for interest after the time I speak of—that is, when you obtained the $9,000 and gave your notes for the Sixth-street house?

A. If there was any interest due they deducted all the interest due up to that time.

Q. How do you know that?

146 A. It was their practice. They did it in every case.

Q. What was the amount of interest deducted at the time of this transfer?

A. I cannot remember that, sir.

Q. Will your books show?

A. My books show it, I know, everything.

Q. When you speak of your books, do you refer to the two books now here?

A. Yes, sir; this book is mine (referring to the small book of original entries).

Q. Look at that book and tell me, if you can, how much interest was deducted by the company at the time you made this transfer to Hooper.

A. I cannot find it, sir. I know that all the interest was deducted from the fact that I calculated all the interest that was due the company at the date of the transfer, which amounted to $780 on everything.

Adjourned to Friday, the 26th instant, one o'clock, at same place.

147 OCTOBER 26, 1883.

Met pursuant to adjournment.

Present: H. B. Moulton, Esq., solicitor for complainant, and Messrs. Edwards and Barnard, solicitors for the defendants; also Seth A. Terry, Esq.

Whereupon the cross-examination of ROBERT A. BALLOCH resumed.

By Mr. EDWARDS:

Q. When you negotiated this $16,000 loan with Hooper, as agent for the defendant the insurance company, what agreement or understanding was there between you and him as to the character of the lien they were to hold on the property described in this bill as security for the loan?

A. I do not understand the question.

(The preceding question is read to the witness by the examiner.)

A. It was to be a first lien.

Q. You purchased this property, did you not, from one John G. Adams about the first of November, 1878?

A. Yes, sir; about that time, sir.

Q. What amount of cash, if any, did you pay Adams on account of this purchase?

A. I cannot remember the amount of cash paid to Mr. Adams.

148 Q. Do you not know in point of fact, Mr. Balloch, that you did not pay Adams one dollar on account of the purchase-money for the property, but that the actual consideration expressed in the deed from him to you was $14,200?

A. Yes, sir.

Q. And that cotemporaneous with the execution and delivery of the Adams deed to you, you executed a deed of trust to secure the whole amount of the purchase-money; that is so, is it not?

A. Yes, sir. I won't be positive as to that.

Q. Is the consideration expressed in the Adams deed to you of the property described in your bill of complaint the actual price agreed upon for its purchase between you and him?

A. Yes, sir.

Q. Who, if any one, represented you in the purchase of this property from Adams?

A. There were two or three parties who represented me.

Q. Name them.

A. Mr. Gilbert.

Q. Mr. B. F. Gilbert?

A. Mr. B. F. Gilbert; Mr. Seth A. Terry.

Q. Did not Seth A. Terry negotiate the purchase of this property for you with Adams?

(Counsel for complainant objects to the question.)

A. No, sir; not solely.

Q. Did he in part.

149 A. In part he did. Of course, the greater part of the transaction was done by myself.

Q. If, as you say, the consideration mentioned in the deed from Adams to you is the purchase price agreed upon, and that be the sum of $14,200, then it is not a fact, if your deed of trust, as you stated, to secure him this purchase-money aggregated $14,200, that you did not pay anything to Adams on the purchase, and simply gave your notes and deed of trust for the whole purchase-money?

A. I think, as well as I can remember, it was this way: that I made a payment which I got back when the purchase of the property was consummated.

Q. How much was that payment and when did you get it back?

A. I forget what the amount of the payment was, but that is my recollection of it now.

Q. Was that payment made by you in person to Adams?

A. I do not recollect at this time, sir.

Q. Do you not know it was made by Terry?

A. No, sir; I do not remember that it was made by Terry.

Q. And you cannot tell the amount?

A. Not at this time; I cannot.

Q. Why was it returned to you?

A. I think it was done as a binder.

Q. Then, as I understand, this payment you speak of was simply earnest money?

A. As earnest money.

Q. After the purchase of this property from Adams by you

150 and the execution of your deed of trust to secure him the purchase-money, did you not place, prior to the execution of the deed of trust by you to Hooper to secure this $16,000 borrowed from the defendant insurance company, the following deeds of trust on this property:

November 15, 1878, to Evans and Peck, on the north 15 feet of sublot 47, to secure the Washington Brick Machine Company $1,500.00, recorded November 16, 1878, in Liber 898, folio 426.

December 14, 1878, to Joseph Rosenbaum, on the south 7 feet 6 inches of sublot 48 and the north 7 feet of sublot 49, to secure W. B. Moses $1,000.00, recorded December 16, 1878, in Liber 902, folio 398.

December 16, 1878, to Evans and Peck, on the south 7 feet 6 inches of sublot 47 and north 11 feet of sublot 48, to secure the Washington Brick Machine Company $1,250.00; May 9, 1879, to A. L. Barber, on the south 11 feet 6 inches of sublot 49 and the north 3 feet of sublot 50, to secure John A. Riggles $1,200.00, recorded May 12, 1879, in Liber 911, folio 295.

A. I had those trusts on there, sir.

Q. Did you not also, prior to the execution and delivery of the trust deed to Hooper to secure the $16,000.00 borrowed from the defendant insuranee company, execute the following deeds in fee of a portion of this property, viz:

151 November 18, 1878, to Smith, Pettit *et al.*, on the north 15 feet of sublot 47, which was recorded December 2, 1878, in Liber 903, folio 46; March 1, 1879, to Marvin Eastwood of the south 6 feet 3 inches of sublot 47 and north 11 feet of sublot 48, recorded March 3, 1879, in Liber 907, folio 203.

A. Those two were never included in the loan. I executed those deeds, sir.

Q. How much, if anything, had been paid by you either as principal or interest on account of the promissory notes held by the parties mentioned secured by the deed of trust I have described prior to your borrowing this $16,000.00 from the insurance company?

A. I do not know, sir; it would be utterly impossible for me to answer that question without a statement from the books. No man could carry such matters in his head.

Q. Were any of these promissory notes secured by these deeds of trust paid in full when you borrowed this $16,000.00 from the insurance company? If so, name those that were thus paid.

A. I cannot recollect, sir; it would be an utter impossibility for me to carry these matters in my head at this day.

Q. Do you not know that at the time you borrowed this $16,000.00 you owed Wm. B. Moses $1,000.00, which was secured to him by the deed of trust I have mentioned?

A. I do not remember, sir.

Q. Had any of those deeds of trust, to your knowledge,

152 been released prior to your borrowing this $16,000.00 we are speaking of?

A. I cannot remember, sir.

Q. I wish you to examine your books or any papers in your possession or under your control, and tell me whether any payment had been made by you on account of these deeds of trust that I have described prior to your borrowing this $16,000.00.

(Counsel for the complainant objects to the question on the ground that it is immaterial, as the deeds of trust referred to do not relate to the property included in the $16,000.00 deed of trust.)

A. I cannot find in this book at this time the entries (referring to the small book of original entries).

Q. When you purchased this property from Adams the lots were

numbered 17 to 29, inclusive, and 47 to 56, inclusive, of Jones, Adams & Duvall's subdivision of square 177, were they not?

A. Yes, sir; that is my remembrance.

Q. A deed of trust from you to secure Adams, cotemporaneous with his conveyance for the purchase-money, covered all the lots I have just mentioned in bulk, did it not?

A. Yes, sir.

Q. Did not this Adams deed of trust underlie or was it not a lien for the full amount of the purchase-money for the property bought from Adams at the time you borrowed this $16,000 from the defendant insurance company?

153 A. Yes, sir.

Q. You represented, did you not, to Hooper, as agent for this company, that this Adams trust was the only lien on the property you intended to give him as security for this $16,000.00 loan at the time you negotiated with him for the loan?

A. Mr. Hooper had abstracts, sir.

Q. Please answer my question, Mr. Balloch.

(The question is read to the witness by the examiner.)

A. As I remember, there were no other liens on the property Mr. Hooper made the loan on at the time.

Q. Did you not so represent to him?

A. No, sir.

Q. You have stated, have you not, that it was understood and agreed that this $16,000.00 loan was to be a first lien on this property?

A. It was on the particular property the loan was made on.

Q. Do you not know, in point of fact, that independent of the Adams deed of trust that other liens or encumbrances existed on that property to a large amount?

Mr. MOULTON: I object unless he specifies what he means.

Q. Do you not know, in point of fact, that at the time you borrowed this money—this $16,000—from this insurance company and negotiated with Hooper for the loan that a large amount of taxes were assessed against this property, both general and special,

154 and were past due and unpaid?

A. Yes, sir; and he knew it.

Q. Do you say that he knew it?

A. Yes, sir.

Q. How do you know he knew?

A. Because we talked it over and over again, and months afterwards he kept bringing it up about the taxes being so much larger than I had stated them to be.

Q. Do you not know that the defendant Hooper had no knowledge or information in respect of the large amount of unpaid taxes assessed against this property until some time after your transfer to him, as stated in your bill of complaint?

A. No, sir; I don't know it, and I know that he did know it.

Q. Do you not know and do you not recollect of meeting the de-

fendant Hooper on Seventh street after you transferred this property to him, when he then, for the first time, remarked to you that he had discovered a large amount of taxes in arrears on the property, informing you that he was advised it was about $3,500 or thereabouts, and did you not then and there reply to him that it was over $4,000?

A. I have no remembrance of such a conversation.

Q. Will you state that no such conversation took place?

A. I do not recollect it, but it may have taken place. I am confident that he knew of the large amount of taxes from the beginning to the end.

Q. After you purchased this property from Adams you made a subdivision of it, did you not?

155 A. Yes, sir.

Q. Into how many lots and what were their numbers?

A. I made such a subdivision of a portion as to front fourteen lots on Sixteenth street, being numbered from 87 to 100, both inclusive; number 100 had a front of 16 feet, No. 87 of 15 feet, and all of the others a frontage of 14 feet. I allowed the 6 lots fronting on "S" street, being numbered from 18 to 28, inclusive, in Adams, Jones and Duvall's subdivision, to remain as I purchased them. I also made a subdivision of the balance of the property so as to front 7 lots on Swan street, leaving a small strip on the west side, which I contemplated to add to, so as to make a full lot, in a purchase I intended subsequently to make from Mr. McGregor, who owned the adjoining property.

Q. What portion, if any there is, of principal or interest had you paid Adams of the purchase-money represented by the Adams notes and deed of trust referred to at the time you borrowed this $16,000?

A. I think not anything.

Q. Now state how much, if anything, you had actuall- expended in improving the 8 lots included in the deed of trust to secure this $16,000 loan at the time you applied for the loan.

A. I cannot tell that exactly. I will answer it in this way: That I expended rising $7,000 on the property beyond what I have received from the insurance company.

Q. You say that you have advanced $7,000 on the property above what you have received from the insurance company. How

156 do you know that, and how do you make your calculations so as to arrive at that amount?

A. I know it from the amount of money that was put in.

Q. Did you keep an account of it?

A. Every cent.

Q. Where is that account?

A. It is in the books.

Q. Do you mean the book that we were talking about at the last meeting?

A. Yes, sir.

Q. This little memorandum book that you hold in your hand and the black account book?

A. Yes, sir.

Q. Now, look at those books and tell me how much money you had actually expended in improving the property, being the 8 lots given by you as security for this $16,000 loan, at the time you negotiated the loan.

A. I have been looking through this book trying to find that account, but I cannot find it, but I could give it to you to a cent. The books will show it.

Mr. EDWARDS: I wish you to prepare yourself at the next session to answer this question.

Q. Describe particularly the condition of those 8 lots as to the improvements at the time you borrowed this $16,000.

A. The first trust to secure the $16,000 loan included lots 92 to 99 on 16th street. The three south lots, Nos. 99, 98, 97, I think,
157 the cellars were all dug for those houses; and I don't believe any man living could tell the condition of the other houses. I am confident they were all up and under roof. I cannot carry the exact condition in my mind. The floors were in some of them, and the plaster, and some were being plastered, but I cannot tell the exact condition of those houses.

Q. Were any of the lots immediately adjoining those houses which were under roof, which are included in this deed of trust we are speaking of, improved any way at the time you obtained this $16,000 loan? I refer now to sublots 91, 90, 89, and 87. Were any of them improved?

A. Certainly they were improved.

Q. State how and what the condition of the improvements was.

A. I think all the houses from 87 to 96 were under roof. That is my recollection, sir.

Q. Did Mr. Hooper, to your knowledge, inspect the property on Sixteenth street that you proposed to deed to him as security for this $16,000 loan from the insurance company before they agreed to make the loan?

A. Yes, sir.

Q. Who went with him, if any one?

A. I do not recollect who did go with him.

Q. How do you know he inspected it?

A. I should not think a man would make a loan on anything without looking at it.

Q. Is that your reason?

A. I should think a man would be crazy if he did.

Q. Did you show him the property?

A. I do not know as I did at that particular time. I did afterward.

158 Q. I am referring now and confining my question to prior to the company's agreeing to loan the $16,000 to you. Did he inspect it, to your knowledge?

A. I was told that he did.

Q. Who told you so?

A. I think Mr. Terry told me he had been out there. He knew I was making the loan.

Q. Mr. Seth A. Terry?

A. Yes, sir; I think he told me. I won't be positive about that.

Q. Do you know or have you any knowledge whether any other person acting for or in behalf of the defendant the insurance company inspected this Sixteenth-street property which you proposed to deed as security for this $16,000 loan?

A. I suppose they did.

Q. What do you know about it?

A. I know on one occasion that their surveyor—I suppose that is what they call him—went out there.

Mr. MOULTON: Give his name.

Mr. STURTEVANT: I took it for granted that of course he went out there or he would never have made the loans. It is not to be supposed.

Q. Can you give the amount or state approximately the amount due for taxes in arrears assessed against the property conveyed to you by Adams at the time you borrowed this $16,000 from the insurance company?

A. I cannot at this time, sir.

159 Q. Do you not know that it was between $4,000 and $5,000?

A. I thought it was about $4,200, sir.

(The preceding question is read to the witness by the examiner.)

A. I cannot state exactly what the taxes were at that time, but I know what the amount of taxes were—about the amount of the taxes.

Mr. MOULTON: When?

A. When the property was transferred.

Q. Transferred to whom?

A. To the agent.

Q. What agent?

A. The agent of the Massachusetts Mutual Life Insurance Company.

Q. Give his name.

A. Mr. William R. Hooper.

Q. At the time of the negotiation for this $16,000 loan or prior to the company agreeing to loan you the money, did you present or show any plat of the property giving the size of the lots and a general description thereof to the defendant Hooper or any other person acting for or in behalf of the insurance company?

A. I do not remember of having done so.

Q. Do you not know that you did not?

A. I do not think that I did, sir; I know that when he asked for one he got it.

Q. How do you know that?

A. Because he asked for a plat. I remember that distinctly.

Q. Who did he ask for it?

A. I think he asked me for that plat, sir.

160 Q. What did you do about it?

A. I think it was served; that the plat was furnished him.

Q. Why do you think so?

A. I do not know.

Q. Who do you think furnished him that plat?

A. I think if he asked for the plat, which I remember now he did, I think I had him furnished with one.

Q. Whom did you request to furnish him with one?

A. My clerk.

Q. Who?

A. S. A. Terry.

Q. The same Seth A. Terry we have been speaking about?

A. Yes, sir.

Q. You were asked at the last session to turn to your books and state what entries they contained of the receipts by you from this company of money forwarded to you on account of this $16,000 loan, and your answer was, without looking at the books, as stated by the examiner, "In June I received from Mr. Hooper $6,601.50. That was all the money I received from him in that month." How did you make up that sum?

A. I made it up by adding together the different amounts of every sum of money that I had received from him during that month.

Q. Where did you find the amounts which made that aggregate?

A. I found them in the books.

Q. Now turn to the book and read these items.

A. Read every one of them?

Q. Yes, sir.

A. It would be an utter impossibility for me to do that at this time. I had a memorandum such as you asked for home at my room that I had here until the last meeting. I thought there
161 would be no use for it and I tore it up. It would take me several hours to make it up again.

Q. Do you not know in point of fact that the only memoranda that you had in your possession when you testified at the last session were in the hands of Seth A. Terry?

A. I never made such a statement.

Q. Is not that the fact now?

A. Not one particle.

Q. In whose handwriting was that memorandum?

A. Every memorandum that I had on my person, with the exception of the one that I spoke of at the time, was made by myself and from the black book.

Q. When did you make this memorandum?

A. I made them at different nights. There is a memorandum I made last night, in my room at my house at Rockville, between 10 and 11 o'clock.

Q. How long will it take you to furnish the items included in this aggregate sum of $6,601.50?

A. I suppose I could make it up in two or three hours.

Q. What agreement, if any, was there between you and Mr. Hooper as to compensation for acting as disbursing agent of the two

drafts forwarded to you by the company on account of this $16,000 loan?

A. None whatever, sir.

Q. Did you not agree to pay him a certain fixed sum as compensation in the premises?

A. He was to get a regular commission.

Q. How much was that?

A. I forget now exactly what the amount was he charged.

Q. Do you not know and did you not through your agent,
162 Terry, give him credit in your book for $400 as commission or compensation for services in respect of this $16,000 loan?

A. That was his commission—part of his commission. I say I do not consider that compensation. There is a difference between compensation and regular commission.

(The preceding question is read to the witness by the examiner.)

A. He deducted that out of the first items he collected.

Q. And it was agreed to, was it not?

A. There was nothing said against it at the time.

Q. Now, sir, do you not know that in this item of $6,601.50, stated by you as received by Hooper in June and as paid to you or on your account from the draft forwarded by the company, you have not included this $400 Hooper was entitled to, as you state, for commission?

A. If it is not included in there he is not entitled to it.

Q. Please answer the question.

(The preceding question is read to the witness by the examiner, counsel for the complainant objecting, as also to it as put in the first instance.)

A. I cannot tell without reference to my books. I think not.

Mr. EDWARDS: You are requested to prepare yourself for this answer also at the next session.

Q. Do you not know and will not your books show that
163 the total credits given to Hooper during the month of June by you through your agent, Terry, on account of disbursements on these houses or by your order was the sum of $7,003.50?

A. No, sir; I do not know it.

Q. You also stated at the last session, in response to the question appearing on page 58 of the testimony, and this also without looking at your books, that in July of the same year, meaning the year 1879, you received $3,009. What answer have you to make to that as to how you arrived at that sum?

A. I made it up in the same way exactly that I did the $6,600 for the month of June.

Q. Do you not recollect that in that item of disbursements by Hooper or receipts from him by you is included the sum of $337.50 for interest then due on the Thirteenth and "Q" street houses?

A. No, sir.

Q. Was it included in that aggregate or not?

A. I cannot tell you, sir, without further reference, what was included in that amount of $3,009.

Mr. EDWARDS: You will please inform yourself before the next session so as to answer this question also.

Q. You say that Seth A. Terry acted as your clerk and agent?
A. Yes, sir.
Q. (Continuing:) In respect of the negotiations of these loans described in your bill and the construction of the buildings and all business matters appertaining thereto I am correct, am I not, in thus understanding your testimony?
A. Yes, sir.

164 Q. What he did in respect of the negotiation of these loans and in the construction of the houses and the disbursement of the money by Hooper and all business matters connected therewith had the same effect and validity as if you had done it yourself, did it not?

A. No, sir.
Q. Wherein was he limited, if at all?
A. As persons should be and would be occupying the position he did.
Q. Describe that limitation.
A. He could not disburse any money or receive any money, transfer any property, or do anything of that kind without my consent.
Q. I am not asking you as to his authority to transfer the property or to mortgage it, but I am confining my question to the matter of the negotiation of the loans from this insurance company, the receipt from Hooper of moneys on account thereof, and his general powers over the construction of the buildings on these lots.
A. He had such powers as that, and had power to receive money on an order I gave Mr. Hooper to pay him money.
Q. In what form did you introduce, if you did introduce, Terry to Hooper as your agent—orally or in writing?
A. I think I gave him a written order to pay Mr. Terry some money.
Q. Look at the paper I now hand you and tell me who wrote that and who signed it (handing witness paper).
A. I know who signed it.
Q. Who?
A. I think I signed that paper, sir.

165 Q. Do you not know that it is your signature beyond question?

A. I should say it was.
Q. Did you not deliver that paper to Hooper?
A. I did, sir.

(Said paper is offered in evidence by counsel for defendants and marked "Ex. C. L. H. No. 5." A copy is hereto annexed, the original to be produced at the hearing.)

("Ex. C. L. H. No. 5.")

WASHINGTON, *June* 4, 1879.

Mr. William R. Hooper, agent Mass. Mut. Life:

Mr. S. A. Terry being my agent in the erection of eight houses on 16th on which your company has loaned $16,000, his signature for monies advanced & in all business transactions is the same as my own.

ROB'T A. BALLOCH.

Q. What, if anything, do you know concerning a statement made up by the defendant Hooper and Terry of disbursements by Hooper on your account from this $16,000 loan at or about the time you transferred this property to Hooper, as charged in the bill?

(Counsel for the complainant objects to the question.)

A. I do not remember it at this time, sir.

Q. You do not recollect it; you know nothing about it?

A. I may have known it at the time, but I have forgotten it now.

Q. Do you not know that such a statement was prepared
166 and agreed upon at that time?

A. No, sir.

Q. Do you not know that at the time of the transfer of this property by you to Hooper that Hooper had, according to your agent, Terry's, own admission, disbursed for you on account of this $16,000 loan the sum of $14,956.10?

A. No, sir; I do not know anything about that.

Q. Do you know anything about a payment by Hooper to M. Eastwood of $1,209 on your account?

A. No, sir.

Q. Do you know anything about a claim of Eastwood's against this property for that sum?

A. I know of a claim for a very much smaller amount than that of Eastwood's against me.

Q. How much was it?

A. I have forgotten now, but, to the best of my recollection, it was not more than one-third of it.

Q. Do you know anything of the payment by Hooper on your account to one Pumphrey for a lien placed on this property out of this $16,000?

A. No, sir.

Q. Did not Pumphrey file a lien?

A. I believe he did.

Q. What was the amount?

A. I have forgotten what the amount was.

Q. Was it not about $100?

A. I have forgotten what the amount was, and Mr. Hooper never consulted me in regard to anything about it.

Q. Do you not know also that Hooper paid to Pettit & Dripps out

of this money on your account for a debt that you owed them $185?

A. No, sir; I know that Pettit & Dripps owed me $1,200 or $1,300 when I transferred the property.

167 Q. Do you not know that Pettit & Dripps had filed a lien on your property?

A. I do not recollect it now, sir.

Q. When you borrowed in 1877 or 1878 money from this insurance company on the security of the Thirteenth and "Q" street property what agreement or understanding was there between you and the company concerning the character of the lien or security given by you to the company for the money then borrowed?

(Counsel for the complainant objects to the question.)

A. I have forgotten all about any transaction that transpired previous to the making of the loan of June, 1879, on the property on 16th and "S" street-. My mind is too much taken up with this thing to go back to that.

Q. Did you not agree and was it not understood that the money you borrowed from the insurance company, for which you gave deeds of trust on the Thirteenth and "Q" streets property, was to be the first lien or encumbrance thereon, and did you not so state at the time?

(Counsel for the complainant objects to the question.)

A. I have no remembrance whatever, sir, in regard to agreements or anything in connection with that property at this time.

Q. When you deeded that property to Hooper, or whoever it was, to secure the insurance company the money borrowed from it had you the deeds for the whole property?

168 (Counsel for the complainant objects to the question.)

A. When I made this loan on this property on Sixteenth street I owed nothin- to the Massachusetts Mutual Life Insurance Company. That has nothing whatever to do with this case.

(The preceding question is read to the witness by the examiner.)

A. I have got nothing to refer to, and it is not connected with this case in any way. I do not remember anything at all about it. I know that I owed them nothing; not one cent. They had been paid interest and everything. The parties I sold the property to assumed the indebtedness and it was all paid. I did not owe them a cent when this transaction in June, 1879, took place.

Q. When you negotiated this $16,000 loan we are speaking of did not the defendant insurance company then hold your five promissory notes of $2,250 each, bearing ten per cent. interest, which were then unpaid?

A. And which was assumed by the parties I sold to.

Mr. MOULTON: And paid by them?

A. And paid by them.

(The preceding question is read to the witness by the examiner,

counsel for the defendants objecting to the interpolation of
169 complainant's counsel suggesting an answer to the witness as being entirely out of place.)

A. (After the reading of the last question:) My notes were out, but the indebtedness was assumed by the parties I sold the property to, and they have been paid, to the best of my knowledge and belief.

(The preceding question is again read to the witness by the examiner.)

A. I do not know when they were paid or anything about it. My notes were out, but the parties assumed the notes, and I know, furthermore, that in January, when I sold the houses to Eichorn, $450 of that interest was paid. There was $562 due, every cent that was due, and then in March $100 was paid to Mr. Hooper, and then in June $12 was paid. That squared the entire indebtedness on that property.

Q. Did you *now* know or were you not informed at the time you borrowed this $16,000 that the defendant the insurance company then held your five promissory notes to its order for $2,250 each, bearing ten per cent. interest, which were then unpaid?

A. No, sir.

Q. You did not know it?

A. I do not remember that I did know it.

Q. Will you say they did not hold them?

A. I won't say that they did not hold them. I do not know who held them.

170 Q. You simply say that they were out?

A. I simply say they were out.

Q. Did you not pay interest on three of these five $2,250 notes to Hooper in July, 1879?

A. No, sir.

Q. Do you not know that you gave Hooper credit in your account with him for interest to the amount of $337.50 July, 1879, being six months' interest at ten per cent. due on the 1st of July, 1879, on three of these five notes then held by the insurance company?

A. I did not owe them one cent of interest on notes held against me for property on Thirteenth street.

(The preceding question is read to the witness by the examiner.)

A. No, sir; I do not know.

Q. What do you know about it at all?

A. I know a good deal about it.

Q. I am referring to the payment of this interest on three of these five notes in July, 1879.

A. If anybody paid it or allowed it to be paid it was not due. I did not owe it. I transferred the property. Other parties had assumed the indebtedness and were to pay the notes.

Q. Had you sold more than two of these Thirteenth-street houses prior to June, 1879; if so, to whom and when did you sell them?

A. I sold the property to Eichorn in January. I forget now the dates that I sold the houses to Mrs. Smyth and Mrs. Swearingen. I forget the dates that property was transferred to those two parties, but I think it was January 31st I transferred the property to Eichorn, and at that time he paid Mr. Hooper the $450 interest on the entire amount that was due at that time on that property, and afterwards, in March, he got another $100.00.

171

Q. Do you not know that at the time you deeded these five houses on Thirteenth street in trust to secure the five notes representing the loan to you by this company in January, 1878, of $11,250 that you had no deed on that portion of the property included in what is known as sublot 86 of your subdivision, being one of the lots so as aforesaid conveyed to the company in trust to secure this money?

A. If that was a fact, Mr. Hooper knew it.

Q. I ask you if it was not a fact.

A. If it was a fact, he knew it and understood and knew all the circumstances connected with it.

Q. Do you mean to say, and do you now assert on your oath, that Mr. Hooper, when, as agent for this insurance company, he loaned you $11,250 on the strength of the property before described as security, knew that you had no deed for a part of it?

(Counsel for the complainant object to the question.)

A. He knew how and when those deeds would be put on record just as well as I did. He knew he was perfectly safe and secure.

A. How did he know he was perfectly safe and secure?

172

(Counsel for the complainant object to the question.)

A. Or he would not have made the loan.

Q. Did you tell him at the time you got this money on the security of these five lots and houses on Thirteenth and "Q" street-that you had no deed for a part of it?

(Counsel for complainant objects to the question.)

A. He had an abstract of it that showed everything in connection with it.

(The preceding question is read to the witness by the examiner.)

A. It has been some time since that operation took place. I bought that ground from a man by the name of McGregor. The south house he was to have built for the ground, and as the houses progressed he was to give the deeds. The houses were all finished and he refused to put it on record until he was threatened for months with a suit in equity. Then he put it on file and Mr. Hooper understood that.

Q. Was not the full amount of this $11,250 borrowed by you from this insurance company on these Thirteenth and "Q" street houses paid to you in two payments, viz., at one time $6,750 on the security of three of the houses, and at another $4,500 on the security of the other two?

(Counsel for the complainant object to the question.)

173 A. You may rest assured of one thing, that Mr. Hooper never let go of what belonged to him without knowing he was secured. He knew he was secured all the time. He knew everything in regard to that house—that I was after that man McGregor to put that deed on record, and he would not do it until he was written to by Mr. Hine.

Mr. EDWARDS: The voluntary statement included in the answer of this witness is not responsive to the question and the examiner is requested to read it.

A. (After the reading of the last question:) That at this time I do not remember how or when that money was paid to me.

Q. It was paid to you, was it not, the whole of it?

A. I suppose I got it some time or another. I won't be sure of that.

Q. Do you not know also that at the time you executed these deeds of trust to secure this $11,250 borrowed from the insurance company there were two unsatisfied deeds of trust on a portion of the property, as follows: One from John F. McGregor to Appleby & Edmonston, dated May 5th, 1877, to secure $400, to Richard S. Hall, recorded in Liber 855, folio 63, and also a similar trust of the same date to the same parties, conveying a portion of the same property to secure another and further sum of $400, to said Hall, which was recorded in the same Liber, at folio 66?

(Counsel for the complainant objects to the question.)

174 A. I can answer no further questions in regard to payments or settlements in regard to the Thirteenth-street property without further reference to books and papers.

Q. Now, sir, do you not know that you received a letter from Mr. Hooper about the last of July, 1879, concerning the condition of the title, which he had recently ascertained, of a portion of the property included in your deed of trust to secure this $11,250 borrowed from the insurance company and did you not hand that or forward it to your agent, Terry?

(Counsel for the complainant objects to the question.)

A. I do not remember anything at this time in regard to that property and can answer no further question without reference to books and papers.

Q. Have you got such a letter in your possession?

A. I do not say I have. I may have it.

Mr. EDWARDS: You are requested to examine your papers and those under your control and if you find such a letter produce it at the next session.

Mr. MOULTON: I object to every question relating to this loan of $11,250 on this Thirteenth-street property, such loan or transaction having nothing to do with this case.

Q. Look at that letter and tell me if you know in whose handwriting it is (handing witness letter).

A. Yes, sir.
175 Q. Whose?
A. S. A. Terry's.

(Said letter is offered in evidence by counsel for the defendants and marked "Ex. C. L. H. No. 6." A copy thereof is hereto annexed, the original to be produced at the hearing. Counsel for the complainant objects.)

(Ex. C. L. H. No. 6.)

M. G. Emery, president. 2038. H. C. Swain, cashier.

Capital, $225,000.

SECOND NATIONAL BANK,
WASHINGTON, D. C., *July* 30, 1879.

W. R. Hooper, Esq.

DEAR SIR: Yours to R. A. Balloch at hand & contents noted—would have written you but was not able to find your address—wrote to Gloucester Mass. once and got no answer & on making inquiry at the post office they said you were probably on the travel & it would be hard to reach you. Your letter does not give your address but is headed Wash. D. C. I suppose the stamp-mark "Marblehead" is the place. When you made the last loans on 13th St. the deeds from McGregor to Balloch were made out and were deposited with Geo. Milburn in escrow to be delivered to Mr. Balloch on certain stages of the work the last No. 1308 to be delivered when the south house was finished & accepted by Mr. McGregor. The trust was given to you before the south house was finished, the south house when finished was accepted by McGregor & sold to my wife—
176 he did not put the deed upon record then & Mr. Balloch layed the papers before a lawyer & papers were drawn up to compel McGregor to carry out his contract & record the deed—which papers set forth that Balloch had executed a trust to the Mass. Mu. Life Ins. Co. for $2,250.00 & that the deed of the property was made to him but that Mr. McG. had failed to record—Mr. Balloch has had several chances to sell and make something if Mr. McG. would record—Mr. G. refused unless certain things were done & has finally consented to leave everything to L. G. Hine who has all the papers & not later than next week all will go on record as terms are now agreed upon. Balloch consenting to sacrifice on one of the houses in order to close the thing out—it may be necessary for your $400.00 to Edmonston to be paid off—if it is I will have Hine telegraph you—Balloch has always collected rents of No. 1508 & no claim of McGregor's to ownership has ever been made—except by old Mr. Milburn for effect—I showed all the papers to Mr. Frank Smith & am willing to submit the matter to anybody or any court of equity. You may have abstract on your return for lot 1508 showing you the relation of $2,250.00 trust if you wish—I don't want you to order it I can do it and get Ashford's as a continuation and not as a new abstract so as to make the expense as little as possible.

Resp'y,
S. A. TERRY,
Agent for R. A. Balloch.

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} p. 179.

177 Q. Look at that letter and tell me in whose handwriting it is and who signed it (handing witness letter). I refer now to only three sides of the letter—first, second, and third pages.

A. I signed it and Mr. Terry signed it, too.

Q. In whose handwriting is the body of the letter?

A. Mr. Terry's.

Q. Is the plat also in his handwriting?

A. Yes, sir.

Q. Turn over on the back of that, on the last page, and tell me whose handwriting that is.

A. That is mine, sir, the whole of it.

(Said letter is offered in evidence by counsel for defendants and marked "Ex. C. L. H. No. 7," a copy of which is hereto annexed, the original to be produced at the hearing.)

(Ex. C. L. H. No. 7.)

WASHINGTON, D. C., *Aug.* 7, 1879.

Wm. R. Hooper, Esq.

DEAR SIR: Mr. Wormly has in his hands $1,250 from some lady who desires to purchase house No. 1510, on sublot 86, square 241. She has had abstract made, & the following encumbrances appear of record:

1st. $400 to Appleby and Edmonston.
2d. 2,250 " Mass. Mu. Life Ins. Co.
3d. 1,200 to McGregor.

178 Wormley, by a certificate given to L. G. Hine, Esq., which we enclose, offers to pay $1,250.00 to him on the $400.00 being released. The release for $1,200.00 Mr. Hine will deliver him on receiving the $1,250.00, so that Wormley get his house clear excepting the company's $2,250 trust, which he agrees to assume. We enclose Mr. Hine's letter stating that, on the receipt of $1,250.00, which Mr. Wormley agrees to pay, he will deliver deed to you of sublot 87 from McGregor for record, which will make your encumbrances on 87 for $2,250.00 good and make it first encumbrance.

We certify that the above is true, and that when the encumbrance of $400.00 to Appleby & E. is paid it will make all liens held by the Mass. Mu. Life Ins. Co. on the 13th-street houses 1st mortgages.

We further certify that the plat made below is a true one of the grounds on which the company made mortgages on 13th street.

Respectfully,
ROB'T A. BALLOCH.
S. A. TERRY.

P. S.—Please look on page 4 of this sheet.

(Here follows diagram marked p. 179.)

179 The red-ink figures, 83 to 88, inclusive, is Balloch's recorded subdivision of B, C, D, E, and F, of McGregor and other's subdivision of lot- 58, 59, and 60, of Kingman's subdivision of square 241.

Mr. Hooper, you will please wire to Mr. Bingham, at my expense, to deliver the two checks on Saturday without fail, as I am greatly pressed for money.

ROB'T A. BALLOCH.

180 Q. That letter, does it not, refers to a letter from Mr. L. G. Hine of the same date? Look at this letter and tell me what you know about it, if you ever saw it before (handing witness paper).

A. I do not see any scarecrow about that.

Q. I asked you if you ever saw it before and what you know about it. Was not that letter of Mr. Hine's enclosed in the letter signed by you and Terry and sent to Hooper by either you or Terry?

(Counsel for the complainant objects to the question.)

A. I sent this letter.

Q. And enclosed the letter to you by Mr. Hine, did you not?

A. I won't be positive about that part of it.

Q. Then what letter is referred to in yours and Terry's letter as written by Mr. Hine of the same date?

A. It may have been that letter, sir.

Q. Cannot you identify this letter of Mr. Hine's which I now hand you as the letter enclosed?

A. It may be the letter; I won't be positive about it; I know this one is all right (referring to the one signed by the witness and Terry).

Q. Do you know Mr. Hine's handwriting?

A. No, sir; I do not.

181 (It is admitted by counsel for complainant that the letter of L. G. Hine, dated August 7, 1879, now handed the witness, is wholly in the handwriting of L. G. Hine; whereupon the same is offered in evidence by counsel for the defendants, counsel for the complainant objecting. Said letter is marked "Ex. C. L. H. No. 8," a copy of which is hereto annexed, the original to be produced at the hearing.)

(Ex. C. L. H. No. 8.)

L. G. Hine, attorney-at-law, opposite city hall.

WASHINGTON, D. C., *Aug. 7th*, 1879.

Robert A. Balloch, Esq.

DEAR SIR: I have in escrow to be delivered on payment of $1,250.00 a deed of conveyance from John F. McGregor & wife to you of that part of lots B and C of McGregor & Milburn's sub. of lots 58, 59, and 60 of Kingman's sub. of sqr. 241 beginning 17 feet 5 in. north from the southeast corner of lot B and running back by the width of 17 ft. 5 in., to the rear line of said lot. I am instructed to and will deliver this deed on payment of $1,250—within ten days.

Very truly, L. G. HINE.

182 Q. Do you not know now, then, from an examination of these letters and from your own recollection, that there was due to McGregor, or he claimed, the sum of $1,250 from you on account of the property embraced in your trusts to this insurance company to secure the $11,250 we have been speaking about?

A. I know that matter was all settled up, and it has gone from my memory and every outside matter connected with it.

(The preceding question is read to the witness by the examiner.)

A. Yes, sir; and Mr. Hooper knew it at the time.

Q. Now, then, is it not a fact that at the time you deeded this property to Hooper in trust to secure this $11,250 to the insurance company there were two deeds of trust on it unpaid, amounting to $400 each, and the claim of McGregor's amounted to $1,250, and that the McGregor deed to you was not on record?

(Counsel for the complainant objects to the question.)

A. I know that Mr. Hooper knew the full status of the case.

(The preceding question is read to the witness by the examiner, counsel for the complainant objecting.)

A. I knew, and I said some time ago that I had called to get that man McGregor to put that deed on record, and Mr. Hooper
183 knew it all the time.

Q. You understand my question certainly, Mr. Balloch; if not, you are at liberty to ask for information. I now again repeat this question and ask you to give me a direct answer.

(Counsel for the complainant objects.)

A. I will answer you that I disremember all things in connection with that property at this time. I never thought it would come up in this case and I never looked at any papers or books to refresh my memory.

Q. What, if anything, do you know concerning the payment of any one of these deeds of trust to Appleby and Edmonston to secure $400 each to Hall?

(Counsel for the complainant objects to the question.)

A. I do not remember anything about the particulars at this time.

Q. Do you not know that the sum of $400 was paid to Hall or the party secured under these Appleby and Edmonston trusts out of this $16,000 loan from the defendant insurance company?

A. I have no remembrance in regard to any of the settlements about the property at this time.

Q. You have said, on page 58 of your deposition, that you received from Hooper $780 August, 1879. Do you not know also that in that sum is included $400 paid on account of the Appleby
184 and Edmonston trusts on this Thirteenth and "Q" streets property?

A. No, sir; I do not know it.

Q. Can you say whether it was or not?

A. I cannot without reference to books.

Q. Can you say whether any sum was paid by Hooper out of the $16,000 loan on account of these Appleby and Edmonston trusts I speak of?

A. I cannot say what was included in that $780 paid in August. I will when I come again.

Q. Why have you not done it before?

A. I tore it up.

Q. Why did you not furnish it from your book?

A. It is only a little book of original entries.

Q. Did you not make up this memorandum by which you refreshed your memory on cross-examination from what is known here as the black book alone?

A. Nearly so, sir.

Q. Is it not wholly, sir?

A. The great bulk was made up from it. Some of it was taken, I think, from the little book. It is good enough for me, but not good enough for the court.

Q. You mean the black book is good enough for you to swear positively as to certain amounts of money received from Hooper, but you won't read the amounts when asked to do so on cross-examination?

185 A. Yes, sir; I will swear to these amounts I give you and took from that book as I stated.

Adjourned to Tuesday, the 30th instant, at 1 o'clock, and the same place.

186 NOVEMBER 5, 1883—1 o'clock p. m.

Met pursuant to agreement at the office of H. B. Moulton, Esq., 701 7th street, the adjournment to last Tuesday going over till to-day.

Present: H. B. Moulton, Esq., solicitor for the complainant, and Job Barnard, Esq., of counsel for defendants.

Whereupon the cross-examination of ROBERT A. BALLOCH resumed.

By Mr. BARNARD:

Q. Are you prepared to answer the questions requested by Mr. Edwards at the last session?

A. I judge so, if you will ask them.

Q. The first one requested is on page 77 of the last session. "Tell me how much money you had actually expended in improving the property, being the 8 lots given you as security for this $16,000 loan, at the time you negotiated the loan.

A. I said a little rising $7,000.

Q. Can you give the exact amount?

A. No, sir. I have to approximate. I cannot carry all these amounts of money in my head.

Q. You were asked on page 83 of last session to state whether or not the $400 commission to Hooper was included in the $6,601.50, which you acknowledged to have received from Hooper in June, 1879. Can you state whether it was?

A. No, sir; it was not included in that amount. I do not think it was.

187 Q. It should have been included, should it not?

A. No, sir; for this reason: Some amounts I deducted, and the $400 there was not included, under instructions from attorney that it would not be allowed.

Q. What attorney?

A. Instructions from my attorney.

Q. Was it not agreed that Mr. Hooper should have $400 for commission for securing this loan?

A. That was the original agreement, but the last agreement upset that agreement.

Q. What do you mean by the last agreement?

A. That he was to receive a certain commission for finishing and completing the property and selling it.

Q. You refer by the last agreement, then, to the arrangement when you transferred the property to him?

A. Transferred the property to him as agent.

Q. On page 84 of the last session you were asked if the sum of $337.50 for interest due on the 13th-street and Q-street houses was included in the aggregate of $3,009, which you acknowledge to have received from Mr. Hooper in July, 1879.

A. I think so, sir.

Q. Can you answer that question?

A. Yes, sir; it was included there.

Q. On page 95 you were requested to search for a letter received by you from Mr. Hooper about the last of July, 1879, concerning the condition of the title of the 13th and Q street houses, on which the $11,250 had been loaned by the company. Have you found such a letter?

188 A. I have not, sir. I failed entirely to look that up.

Q. You have not made any search for that?

A. No, sir.

Q. Will you please to do so and bring it at the next session?

A. If I can find such a letter I will do it.

Q. In your examination-in-chief you stated that at the time of the transfer of this property to Mr. Hooper you gave him a list of the debts or claims to be paid.

A. Yes, sir.

Q. Did you keep a copy of that list?

A. I think I did.

Q. Can you enumerate now the items the list contained?

A. No, sir; I cannot from memory.

Q. Can you remember the aggregate amount now?

A. I cannot now, sir, not at this time. I gave it to him.

Q. Look at the paper now handed you and state what it is.

A. This is a deed of the property.

Q. That is the original deed, is it not?
A. That is the deed.
Q. That you gave to Mr. Hooper?
A. Yes, sir.

(Said deed is offered in evidence by counsel for defendants and is marked "Ex. C. L. H. No. 9." A copy of the back of said deed is hereto annexed, the deed to be produced at the hearing.)

189 *Deed from R. A. Balloch to William R. Hooper.*

Received for record on the 27 day of February, A. D. 1880, at 10.20 o'clock a. m., and recorded in Liber No. 937, folio 111 *et seq.*, one of the land records of the District of Columbia, and examined by—

GEO. F. SCHAYER,
Dep. Recorder.

Q. Will you please state again, Mr. Balloch, the circumstances that led up to the making of that deed?
A. Well, sir, after repeated solicitations on my part to Mr. Hooper to make the advances agreed upon when the loans were made, not being able to make him comply with my request over and over made by myself, and after his solicitation to me several times to transfer the property to him, it was done, he agreeing, if I would do it, that he would immediately complete the work on all the houses,
for which I agreed that he should have 25 per cent. of the
190 profits and I to have three-fourths.
Q. What interest had the company, defendant insurance company, in that arrangement, if any?
A. He was the agent and trustee of the company. At that time he was trustee in all the deeds to the company.
Mr. MOULTON: Acting for them?
A. Acting for them.
Q. Was this transferred to him for the company or in his individual right?
A. I think he was acting for the company. I transferred to him, but the transfer was virtually to the company. That was my idea about it.
Q. That is your argument about it, but was there anything said at the time of the company having any interest in it, or was it an arrangement between you and Mr. Hooper solely?
A. All the conversation passed between myself and Mr. Hooper, but I have not a doubt that Mr. Hooper, as agent of the company and being trustee in all those deeds, would be held.
Q. Who would be held?
A. The company would be held for his acts as their agent.
Q. Why did you not put it in the deed that way?
A. I did not think it made any difference.
Q. What other property had you at the time, Mr. Balloch, except that described in this deed?

Mr. MOULTON: I object to that as immaterial to this case.

191 A. I do not recollect. Let me look at that deed again, please. I cannot answer that question. I had property, but do not know exactly what I had at that time or during that time. I cannot answer that question.

Q. Had you property in the District of Columbia at the time you made that deed except the property described in it?

A. (After exam-ing deed:) I think not, sir; not at that time in the District.

Q. Had you any other real estate anywhere?

A. Yes, sir.

Q. Where and how much?

(Counsel for the complainant objects to the question as immaterial.)

A. I cannot answer that question, sir. I do not think it comes into the case at all.

Q. Why cannot you answer it?

A. Because I do not think you have any right to ask it. It is outside this case altogether.

Q. You mean, then, that you won't answer it, or decline to answer?

A. Unless the court makes me answer it, I won't answer it.

Q. Will you give the value of any real estate you had elsewhere at the date of that deed?

A. No, sir; I cannot.

Q. Can you if required by the court?

192 A. I do not believe I could if the court required me.

Q. Why did you include in this deed other property than that included in the deeds of trust to secure these several loans?

A. Which property do you mean—the property on Capitol Hill and Sixth street?

Q. I mean the other property described in this deed exclusive of that known as the Adams property.

A. They held trusts on the other property. In the agreement all the property was to be sold, out of which I was to get three-fourths.

Q. How came there to be trusts on the other property described?

A. I took some of the property in trade, but after having taken it I found that the title was not good to some of it; the attorney reported the property not good, and it was not included in these amounts made up in the bill.

Q. What piece of property was that?

A. Property on the corner of Second street and Massachusetts avenue N. E.

Q. You mean the property that you got from the insurance company?

A. Yes, sir.

Q. Known as the Archer property?

A. Yes, sir.

Q. What was the matter with the title?

A. I do not remember now, exactly. Mr. Ward reported the title was not clear.

Q. You aver in your bill that the action of the defendants
193 in withholding these loans from you was detrimental to your interests in constructing these houses. Will you please state in what respect that crippled you?

A. Having put all the money that I had and could raise of my own in it, and that the agent's not making the advances as agreed upon between himself and myself, and not being able to transfer the property to any other parties, they having trusts on them; in that way I was crippled.

Q. Did you contract this work out to different parties—the building of these houses?

A. Yes, sir.

Q. How were your accounts at the time of this transfer with your subcontractors or builders?

A. I owed them very little, each individual party. They were paid almost as rapidly as they were entitled to receive pay, as the work progressed. Some of them, perhaps, might have been a little overpaid.

Q. Then you were not embarrassed any by the want of money to pay them as fast, or nearly as fast, as payments were due them, were you?

A. I was.

Q. In what respect and to what builder?

A. To get means to pay for material and to pay some of the contractors. I had frequently taken the men with me right to Mr. Hooper and I would want him to make advances to pay some of the contractors and got them to say I owed it to them and just how much I owed them; and I never could induce him, after a certain date, to advance another cent to me, but I believe at the time he refused he had an object in getting control of the property,
194 which he afterwards did. I believe he did it with that sole motive on his part, to get the property and to cripple me.

Q. Did not Mr. Hooper advance money to you more than once before the moneys were strictly due in accordance with your agreement as to the stage to which the improvements had been carried?

A. He so stated, that he thought he had, and tried to settle his mind on that. I gave him a little deed of trust without receiving a dollar for it to quiet him, to satisfy him at that time.

(The preceding question is read to the witness by the examiner.)

A. He might have once or twice, but I believe very rarely he advanced anything beyond where the company was safe. At the time when he refused at our last dealings he would have been perfectly and entirely safe in making such advances as I asked him to make. The property on which the company held the deeds was full security if he had advanced the loans as I wanted them and in the small amounts as I wanted them. I didn't want him to advance the money to me. I even went this far with Mr. Hooper. I made

this statement to him: "You need not pay this money to me, but pay it to the men as the work progresses. You appoint any man you please to superintend the work at my expense. I do not want the money for myself; I want to put it in the property, to complete them."

195 Q. How came you to offer such an arrangement as this? Had there been any question between you and Mr. Hooper that the moneys received by you from these loans had not been strictly applied in building these houses?

A. No, sir; I could not get anything out of him. I made every offer I could think of.

Q. In point of fact, did you apply all this money received from Mr. Hooper in building these houses up there or did you apply any portion of it to other indebtedness or matters of your own?

A. Not one cent ever went into any of my matters. All the money I got for those houses was expended for the further completion of them, in paying indebtedness on them.

Q. Did you not use any for living during the time or for personal expenses?

A. Not a cent, I do not believe. I will be willing to swear that to my recollection never a dollar went towards anything but the completion of that property.

Q. Had you any income at the time from any other sources?

A. Yes, sir.

Q. What source?

A. That is no one's business, sir.

Q. You were not engaged in any other business at the time, were you?

A. No, sir. When I was building these houses I was engaged in that.

Q. Devoted all your time to it?

A. Devoted all my time to it.

196 Q. What was the object, Mr. Balloch, in keeping this arrangement between you and Mr. Hooper, as you state it was, a secret contract?

A. It was no secret contract that I know of.

Q. The arrangement is not in the deed at all?

A. The arrangement is not in the deed, but it was understood between us.

Q. Verbal?

A. Verbal, and in the presence of a witness.

Q. What witness?

A. General Balloch knows the whole circumstance; he knew the circumstance at the time. The deed was acknowledged before him.

Q. Why was this contract, then, not reduced to writing?

A. I was told that it would be just as binding; that a verbal contract that you could prove would be just as binding as if it were written?

Q. Who told you?

A. I was told by friends who I consulted before I did it.

Q. Was that the only reason why it was not put in writing?

A. Yes, sir.

Q. What were you to have, Mr. Balloch, under this alleged verbal arrangement before the sales of this property were completed, if anything?

A. What was I to be paid?

Q. Yes.

A. I do not remember that I was to be paid anything until the property was completed and sold to the best advantage.

197 Q. When were the sales to be made?

A. He was to have immediately commenced the completion of the houses and sell them to the best advantage.

(The preceding question is read to the witness by the examiner.)

A. The houses were to be completed immediately in the most economical manner and the sales were to be made, and I was to be paid my portion of the proceeds of the sales.

(The preceding question is again read to the witness by the examiner.)

A. I do not believe he was to keep them to the day of judgment and sell them then. They were to be completed at once and sold to the best advantage. When I found they were completed and had been sold—the majority of them—I went to Mr. Hooper and could get no satisfaction out of him, and out of that came this suit.

Q. Do you say now that they had been sold?

A. I understand that more than half of them had been sold when the balance of them were completed. I judge now the whole of them had been sold; I judge so.

Q. Do you know they had been sold?

A. I want to find out. That is what I am after now.

Q. You have sworn in the bill that they have been?

A. That is what I understood.

Q. I asked you if you know they had been sold.

A. I said the majority of them had been sold when the last

198 of them had been completed; that is what I understood.

Q. How many of these houses do you know have been sold?

A. I know some of them have been sold under contract.

(The preceding question is read to the witness by the examiner.)

A. I know one of them has been sold.

Q. Is that all?

A. I know that quite a number of them have been sold under contract when a certain amount is paid.

Q. Was any time limited in which these houses were to be completed and sold?

A. He was to immediately commence the completion of the houses, and there was not anything done to speak of until after months and months.

(The preceding question is read to the witness by the examiner.)

A. No; but it was pretty well understood as to the completion of them. There was a time understood, and that they must be sold to the best advantage.

Q. What time was limited to the completion of them?

A. He was to immediately commence the completion of them.

Q. Complete them in what time?

A. In a reasonable time.

Q. Well, there was no time limited, was there, in which the houses were to be completed and the sales made?

A. There was no particular specified time in regard to
199 when they were to be sold, but he was to commence immediately and complete the houses.

Q. Was he to sell them at auction?

A. No, sir; but he was to do this: He had $21,000 in his hands, and if he had spent that $21,000 he could have completed the houses and put them under roof. Some of them could have been completed for $200 apiece and some for $400 and $500, and he let them stand there all that time without any revenue.

Q. How came you to apply for this last loan in February, 1880?

A. Because I wanted the money.

Q. Had not Mr. Hooper already in his hands money that was then to be paid to you to complete these houses?

A. He had considerable money in his hands.

Q. Why did you want to have any more until that was paid over?

A. Because I was fool enough to think he would do better.

Q. Did he pay over any of this third loan to you at all?

A. I do not recollect now, sir, whether he did or not.

Q. You did not apply for that loan or did not receive it until a few days before you made this deed?

A. I do not think I got any of it.

Q. Did you produce here a pile of receipts which Mr. Hooper gave you for the drafts endorsed by you and delivered to him?

A. I won't be sure, sir; I do not know whether I did or not. If I did not, they will be put in.

Q. You only filed two, one dated October 18, 1879, and the other February 18, 1880. Do you recollect any more?

A. I took receipts from him, sir, every time money came in that way, I think.

200 Q. Will you produce the remainder of the receipts that you have of Mr. Hooper's?

A. If they are not in they will be put in.

Q. I ask you to produce them now for the purpose of this examination.

A. I have not got all the papers with me. I could not put them in now.

Q. I am asking for the remainder of the receipts given by Mr. Hooper to you for drafts alleged to have been endorsed by you to his order, representing parts of these several loans.

Mr. MOULTON: I object to the question and direct the witness to

decline to produce them for the reason that counsel for the complainant proposes and intends to introduce them in proof in the way he may think proper.

A. I cannot produce them. They are in the hands, I think, of the attorney, who, I judge, intends to keep them until the proper time.

Q. You decline, then, to produce any more of these receipts?

A. I have given them to him and he won't give them to me.

Q. Can you state whether the $6,750 draft which you delivered to Mr. Hooper on the 18th February, 1880, according to the "Exhibit C. L. H. No. 3," filed herein, was a part of the proceeds of the last loan?

A. I judge it was, sir.

Q. And you state that none of that money was paid to you by Mr. Hooper?

A. I think not, sir.

201 Q. Or on your order?

A. I think not, sir.

Q. How much did you owe the defendant company on account of the notes secured by trust on the property described in this deed to Mr. Hooper outside of that known as the Adams property?

Mr. MOULTON: I object to the question as incompetent.

A. It would be an utter impossibility for me to answer that.

Q. You paid the company something on account of that property from these various loans, did you not?

A. They were deducted from the loans.

Q. You state on page 16 of the first session of your examination-in-chief that you insisted on some certain payment being made by Mr. Hooper before you agreed to make this deed. What was that payment?

A. It was a payment to Hayward and Hutchinson.

Q. For what amount and on what account?

A. I forget what the amount was at this time and I cannot remember at this time on what account it was paid.

Q. You state, Mr. Balloch, that you received no money whatever from the defendants after January, 1880, and yet you applied for a loan on the 17th of February, 1880, of $9,000 more. Are you clear in your recollection that no money was paid after January?

A. I do not think at this time that I received any money after January with the exception of the amount of money that was paid to Hayward & Hutchinson and that amount in January amounting to $215.00.

202 Mr. MOULTON: That was the Hayward and Hutchinson payment?

A. No, sir; I know whatever the amount was was paid to them just as the transfer was made. No amount of money was paid to me after January.

Q. Who were your creditors at the time you transferred this property to Mr. Hooper by the deed now in evidence?

A. I do not recollect, sir.

Q. Do you remember any of them?

A. Oh, yes; I recollect some of the names. No, I do not know as I could state the names. I gave him a list of them.

Q. You did not give him a list of all your creditors, did you?

A. Not of all my creditors, but I gave him a list of all my creditors that I owed anything in connection with that property up there.

Q. What other creditors had you except those in connection with the building of those houses at that time, if any?

Mr. MOULTON: I object. It is immaterial what creditors he had.

A. I do not propose to answer that question. Anything outside this property I do not propose to answer at all.

Q. Why not?

A. Because I do not think it is anybody's business, my private affairs.

Q. What do you mean in your answer on page 18 of the first session by stating "that the action of the company's agent so embarrassed me that persons began pressing and suing me, and,
203 being fearful that neither my creditors nor myself would be able to realize anything out of it, I made the transfer to the company, thinking that by so doing I would save my creditors and myself money," &c.?

A. I mean just exactly what I said.

Q. Will you now state what creditors you referred to in that answer?

A. I mean as far as this property is concerned; such creditors as I owed for labor and material on it.

Q. Which of them had been pressing you for payment?

A. Men that I had contracts with who were doing the work on the building.

Q. Who were they?

A. I forget the names of them all now. Mr. Hooper has got a list of them.

Q. Give me the name of any creditor of yours that was pressing you at the time you made this deed to Mr. Hooper.

A. Tom Smith was one. I owed Tom Smith something—Thomas W. Smith, the lumber man.

Q. Any other that you can recollect?

A. Not at this time. I cannot recollect any others.

Q. What creditor had sued you at that time?

A. I do not know as any one had sued me. They had threatened it. They would not do any work for me.

Q. You stated that your creditors had sued you.

A. I did not intend to state that.

Q. You are clear that no suits had been entered against you?

204 A. No suits at that time.

Q. Had you any other general creditors not connected with these buildings that were pressing you at that time and threatening suits?

A. I owed people money. I was indebted to other parties.

(The preceding question is read to the witness by the examiner.)

A. No, sir; but my work was stopped and they were annoying me for balances.

Q. You mean your general creditors were annoying you for balances?

A. No, sir; I mean the mechanics that were working for me.

Mr. MOULTON: On this work?

A. Yes; all on this work connected with these buildings.

Q. What is your best recollection as to the amount you owed the builders, material men, and mechanics on account of this property at the time you made this deed to Mr. Hooper?

A. I cannot answer that question, sir, without considerable time at the books.

Q. I do not call for positive proof. I am asking your best recollection about the amount.

A. I cannot state it. That is an important matter and I do not intend to make any statement in regard to it without the facts.

205 Q. Can you get at the facts?

A. I can get at them exactly.

Mr. BARNARD: The witness is requested to examine the books and get at it exactly, so as to be able to answer this question at the next session.

Q. What danger were these creditors in, if any, at the time you made this deed of losing their claims?

A. Mr. Hooper promised to pay them. They were not in any danger, because he promised to pay them if I made the transfer; that was one of the terms of the agreement.

Q. I mean before the transfer.

A. The company had all the property and all the money, and I thought there was a good deal of danger of my not getting anything out of it, or the small amount I did owe people on the property. Less than ten thousand dollars would have completed the property and put them on sale.

Q. You stated in your examination-in-chief that you put in a little over $7,000 of your own money into this property. Where did you receive that money from?

Mr. MOULTON: I object, because it is immaterial.

A. It is no one's business where I got it.

Q. Was that a portion of the money borrowed on the 13th and Q street houses or the proceeds of sales of said houses?

206 Mr. MOULTON: I object to the question as immaterial.

A. That is no one's business, sir, where I got that money I used in these houses.

Q. Do you decline to answer the question?

A. I do, sir.

Q. On what grounds?

A. On the ground that it is no one's business.

Q. How do you make up the amount you paid in there?

A. By the actual amount expended.

Q. Have you kept a memorandum?

A. Every cent. I can tell to ten cents what went into those two rows of houses of the $14,725.15.

Q. I am talking about this money you put in before you borrowed from the company.

A. I know what you are talking about.

Q. How do you know it amounts to $7,000?

A. Because it added up that amount.

Q. Have you kept the items of the account?

A. I can give the account to a cent. I will give the exact amount. I said rising $7,000 was expended there by myself.

Q. Can you give the items of that account?

Q. Yes, sir; and it will all be stated when the court orders an auditing.

Q. What was it paid out for?

A. Labor, material—different ways. I cannot tell what it all went for. Everything went into those buildings.

207 Q. You stated that the notes you gave the company for these loans had never been returned to you?

A. No, sir.

Q. Have you ever asked for them?

A. I do not know as I have. I asked for a statement and settlement of my account.

Q. Have the notes ever been returned to you that you gave to secure the loans on the 13th street and "Q" street houses?

A. I have not received any notes, I think.

Q. Have the notes been returned to you that were given for the deferred payments for the Archer house and 6th-street house, known as the "Howard house"?

A. No, sir.

Q. Have they ever been demanded?

A. Only in this way that I told you—in asking for a settlement.

Q. Can you state the aggregate amount of the principal of these notes given to the company and which are outstanding against you yet, so far as you know?

A. I cannot, sir, now.

Q. Mr. Balloch, among the debts which Mr. Hooper was to pay out of this property, according to your statement of the understanding between you and him, how much was to be paid to The Massachusetts Life Insurance Company, defendant?

A. I cannot answer that question.

Q. You cannot answer?

A. No, sir.

208 Q. Are you willing to stand by the memorandum when it is found?

A. Stand by what?

Q. The memorandum of debts you gave to Mr. Hooper as to what should be paid out by him.

A. I do not think in that memorandum I gave Mr. Hooper anything was said about what was due the insurance company. I know there was not.

Q. Did you not anticipate that any money should be paid to the insurance company from the sale of this property?

A. Anything that was due them and no more.

Q. This list of debts, then, which you requested Mr. Hooper to pay was simply the material men, mechanics, and contractors on these houses?

A. Yes, sir.

Q. Including the taxes and the Adams debt, I suppose?

A. No, sir; that was not in that list.

Q. Nothing due the insurance company?

A. No amount of taxes or interest. Nothing of that kind was stated in that list.

Mr. MOULTON: Just a list of the debts, including what was due on the ground or what was due in taxes or what was due in interest; the items due for materials and labor?

A. That is it; and, to the best of my knowledge and recollection, it was less than a thousand dollars. (To Mr. Barnard:) I think that will answer the question you told me to hunt up.

209 Mr. BARNARD: I still request the witness to hunt up that matter, so as to answer definitely.

Adjourned to Thursday, the 8th instant, 1 o'clock, and at the same place.

210 NOVEMBER 8, 1883—1 o'clock p. m.

Met pursuant to adjournment.

Present: H. B. Moulton, Esq., solicitor for the complainant, and Messrs. Edwards & Barnard, solicitors for the defendant.

Whereupon the cross-examination of ROBERT A. BALLOCH resumed.

By Mr. EDWARDS:

Q. You stated in your examination-in-chief that you put in of your private funds into the improvement of the property in controversy a little over $7,000, and you were requested at a subsequent session, on cross-examination, to tell how much money you had actually expended in improving the property, being the eight lots given by you as security for this $16,000 loan at the time you negotiated the loan, to which you answered, "A little rising $7,000;" that you could not give the exact amount; that you have to approximate; that you cannot carry all these amounts of money in your head. I wish you to state how you were able to say that you expended this sum of money towards these improvements.

A. I do not wish to say that I expended the whole of that amount, rising $7,000, before I made the loan. I do not want to be understood in that way.

Q. During what period did you expend that money, from first to last? Give the dates.

A. I cannot give them.

211 Q. Was it between the time you purchased the property from Adams and the date of the transfer to Hooper?

A. Exactly.

Q. That fixes it, does it?

A. That fixes it; yes, sir.

Q. Have you not stated that you kept a correct account of your expenditures on account of the property which is the subject of controversy in this suit?

A. Yes, sir.

Q. In what form did you keep that statement?

A. In book form.

Q. In what books?

A. I find it in all these books.

Q. In the two books we have before been speaking about?

A. Yes, sir; you will find everything in those books.

Q. Now I wish you to state from these books what you *are* actually expended on account of this improvement out of your private funds other than moneys received on account of the three loans described in the bill from the defendant insurance company, giving dates of payment and the several items.

A. You do not suppose I can do that sitting here, do you? They were in large and small amounts and no doubt several hundred. It would be an utter impossibility for me to make such a statement as that.

Q. How did you arrive at this amount for the purposes of your answer on your direct examination?

A. By adding together the amounts that I am credited for

212 in my own books as having been expended at different times.

Q. And you say that you are positive that these several sums paid out of moneys other than that received from the insurance company and the loans mentioned amount to nearly $7,000?

A. Rising $7,000, I think, sir.

Q. Is it over $6,000?

A. Yes, sir; a good deal over $6,000.

Q. Is it nearer $7,000 than $6,000?

A. A good deal nearer $7,000, as I remember, when I made the calculation from the books.

Q. When did you go over those books?

A. I cannot remember the dates, but I did it since I have been on this stand myself.

Q. Did you take out the items?

A. Of the expenditure?

Q. Yes, sir.

A. Yes, sir. As I put it in I credited myself with so much cash; whenever I put in a sum of money I credited myself with that said sum of money.

Q. In the books?

A. In books.

Q. In a separate account?

A. Yes, sir.

Q. Now, I wish you to take that book and turn to the page which shows this account and let me see those items.

A. I cannot do it, sir.

Q. Why not?

A. Because, as I told you before, on the previous examination, these entries would not amount to anything at all.

213 Q. You have stated, have you not, that these items of original entries were posted in a book which shows the aggregate items for the several accounts and disbursements, and that those aggregate items are in what has been termed a black book, which, you say, contains a true and correct account of these disbursements and financial transactions pertaining to your loans from the company and disbursements on account of the property in controversy; that this black book is a duplicate of what you term the book of original entries. If that be the case, why do you refuse to allow counsel for the defendant to inspect the book containing these entries?

A. The court would not accept any but the original entries, I told you.

Q. I now ask you to read from this black book the entries showing your expenditures out of moneys other than obtained from this insurance company on account of this property. I want your compliance or I want your positive refusal.

A. You have my refusal until the court orders an audit or orders me to do it; then you will get it.

Q. You refuse to produce it or to examine it for the purposes I have requested without being ordered to do so by the court, do you?

A. Yes, sir; the court will have the books when they make the order.

Q. How long did Mr. Seth A. Terry continue in your employ or act as your agent concerning this property, and where was

214 he at the time you deeded this property to Hooper?

A. You know where he was.

Q. I do not, sir; I ask you.

(The question is read to the witness by the examiner.)

A. From the commencement of my operations on those buildings up there and before that and up to about the time I made the transfer of the property——

(The preceding question is read to the witness by the examiner.)

Q. If you do not know where he was——

A. I cannot tell you.

Q. Do you know where he was?

A. Yes; and I think you do, too.

Q. I ask you, Mr. Balloch, to answer my question.

A. I won't answer the question, sir, because I think you know. I know you know.

Q. Do you refuse to answer this queston also without an order of the court?

A. I do not think that you have got any right to bring in anything of that kind myself.

(The preceding question is read to the witness by the examiner.)

Q. You said you knew.

215 A. I do not remember ever having said I knew where he was myself. I told you I understood you had no right to bring anything of the kind in here, and I do not intend to answer any question of that kind which does not refer to anything having a bearing on this case.

Q. How do you know?

A. Because I know.

Q. Why?

A. Because I know it.

Q. Is that your answer?

A. It is an utter impossibility for it to have anything to do with my business.

Q. I wish you to state what you are now speaking of as not having any relation or bearing on this case.

A. I mean this precisely: that I won't answer any questions that are put to me that have no bearing whatever on this suit. Now, you have got it.

Q. And you claim to be the judge of that, do you?

A. I do, most assuredly.

Q. Was Terry acting as your agent or was he in your employ when the transfer by you to Hooper was made?

A. He had been up to that time.

(The preceding question is read to the witness by examiner.)

A. He had been up to the date of the transfer.

Q. I asked you if he was at the time of this transfer acting as your agent or in your employ.

216 A. I answered that perfectly plain. He had been. If he had been he was up to that time.

Q. Is it not a question you can answer yes or no?

A. Yes.

Q. Then answer it.

A. I did answer it. He had been up to that date.

Q. Was he at the time you transferred this property to Hooper?

A. He had been up to that date.

Q. Do you decline to give another answer?

A. I have answered it.

(The question beginning "I asked you if he was at the time of this transfer" is read to the witness by the examiner.)

A. I will answer it just the same as I did before—that he had been up to the date of the transfer.

Q. Will you give no other answer?

A. I cannot give any other answer. I do not know how.

Q. You have said the question admitted of an answer yes or no, have you not?

A. I have answered it.

Q. Now, I wish you to say yes or no to the question I have asked you—whether Terry was acting as your agent or was in your employ at the time you transferred this property to Hooper.

A. He had been up to that time in my employment.

Q. Was he then in your employ or acting as your agent? I refer to the time of the execution and delivery of your deed of this
217 property to Hooper.

A. He had been up to that time.

Q. Is that your only answer to this question?

A. He was not afterwards.

Q. When did he stop as your agent?

A. Just about that time.

Q. Before or after?

A. Just about the date of the transfer.

Q. About the date—within what period?

A. I forget. I cannot state.

Q. You stated at the previous session on cross-examination that you did not see in either the book of original entries or what you term the duplicate, or the book wherein the original entries were posted, any entry of credit for interest paid to the defendant company on account of the loan secured on the Thirteenth and "Q" street property subsequent to the date you obtained the $16,000 loan. At the last session, on cross-examination, you say that $337.50 for interest due on the loan secured on the Thirteenth and "Q" street property was included in the $3,009 which you acknowledged you received from Hooper in July, 1879. How did you ascertain this fact so as to make this statement at the last session?

A. Interest on three of the houses on Thirteenth street. I found it out by reference to the books.

Q. When did you find this out?

A. Looking on it afterwards.

Q. Why were you unable to give this answer when I first asked you? You were requested to look at the books which were
218 then before you.

A. I was not sure, in my own mind, that I was right about it and I wanted to look over it again and look over memorandums I had.

Q. What memorandums?

A. Memorandums in reference to payments, &c.

Q. Where are these memorandums?

A. They are all accounts. They will all go in the account to the auditor.

Q. Have you that memorandum in your possession?

A. Not now; I have not.

Q. Where is it?

A. I do not know. I had several memorandums, but I tore them up. I kept on making them and tearing them up.

Q. When you purchased this property from Adams your object was to improve it, was it not?

A. Yes, sir.

Q. Did you obtain any plans of the houses or have them made; if so, by whom?

A. I had no architect, sir.

Q. Did you have any plans of the houses?

A. I do not recollect now. I think I gave the carpenter rough plans of the work.

Q. Who was the carpenter?

A. There were several of them.

Q. Have you any plans in your possession at this time of these houses?

219 A. I may have some rough plans among my papers. I haven't looked after them.

Q. Can you say whether you have or not?

A. I cannot.

Q. Did you make any estimate or calculation as to the probable cost of the 16th-street houses?

A. Yes, sir; I made contracts with carpenters and bricklayers to do the work.

Q. Name these carpenters and bricklayers you made these contracts with.

A. William J. Sterling was the brickman.

Q. Name the carpenters.

A. I think his name was Gessford—Charles, I think, was his first name.

Mr. EDWARDS: Mr. Balloch, our time is valuable. I wish you would answer these questions and let the book alone that you have in your hand until I get through with your cross-examination.

The WITNESS: I was trying to think of an old carpenter who did the work on the "S"-street houses.

Q. I am referring to the 16th-street houses.

The WITNESS: The same man did the work on them. One of the carpenters was Jackson Pumphrey.

Q. Where did he live?

220 A. He used to live at the point of Vermont avenue and 11th street. There were two men. One was named Wagner. I got a good deal of work done by Wagner and some other man. I forget his name. Gessford did most of the work on the 16th-street houses.

Q. Now, I wish you to state the several contract prices agreed to be paid to the several material men for the construction of these houses. You have stated that you contracted it.

A. And that is an utter impossibility. They got so much for putting them under roof, so much for hanging doors, and so much for putting in partitions. It was done in piece-work in such a way that I could not tell at this time without reference to the agreement.

Q. Where are those agreements?

A. They are with the papers; with the books and papers connected with this concern.

Q. In whose possession?

A. I judge my attorney has them.

Mr. MOULTON: I think you are mistaken.

The WITNESS: I think you have them or copies of them.

Mr. EDWARDS: You are requested to produce these contracts or the copies thereof at the next session.

Q. Do you recollect what was your original estimate when you undertook to construct these houses as to the cost thereof in the aggregate?

221 A. No; I do not. I can tell you exactly if you want it done, exactly what the amount of the contracts were to complete the houses when I transferred them over, what they agreed to complete them for.

Q. I want to get at what you estimated or ascertained to be the cost for the construction of these houses when you commenced to build them. I do not care how you obtain it so long as you answer the question.

A. I will answer it the best I know how. You want that done next session, too. I can answer that question in this way: I can give the exact amounts that had been expended towards the completion of those houses up to the date of the transfer and what the balance was that would be due at the completion of them.

Q. That will show, will it not, what it would cost?

A. Yes, sir.

Mr. EDWARDS: You are requested to furnish that at the next session in addition to the contract or the copies thereof that I have requested.

Q. For what purpose did you obtain these loans from this insurance company?

A. What do you suppose I borrowed the money for but to complete the houses?

Mr. EDWARDS: My time is valuable.

The WITNESS: You say yours is, and so is mine.

222 Q. Did you have any other purpose in obtaining these loans?

A. I do not know any.

Q. It was to be applied in that way, was it not, on your order?

A. I borrowed that money to complete those houses, and if the houses could have been completed for less—if it did not take all the money—the money was mine. I could use it as I pleased. Some of it was used in that way, I believe, in paying interest on the 13th-street property—the $337.50.

Q. For what other purpose, if any, was the money disbursed that you obtained from this insurance company on the security of the houses now in controversy?

A. I borrowed that money, sir. For what other purpose?

(The preceding question is read to the witness by the examiner.)

A. Only in the way that I told you before; only for the completion of those houses and paying interest.

Q. Do you not know it was necessary to pay the amount due Adams out of this money?

A. Most assuredly I knew it.

Q. Was not that understood?

A. Certainly.

Q. Was not that your direction?

A. He knew he had to pay Adams out of it, and he held money back to do it, and he said he had paid him when he had not.

(The following question is read to the witness by the examiner: "Do you not know it was necessary to pay the amount due Adams out of this money?)

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A. Yes, sir; when I said it was necessary to complete the houses I meant to complete the whole and free.

Q. Can you state how much was disbursed on account of the construction of the houses alone out of the money obtained from this company on the security thereof at the time of your transfer to Hooper?

A. Yes, sir.

Mr. EDWARDS: You are requested to furnish this statement at the next session.

The WITNESS: I can give it to you to ten cents; to one cent.

Q. Was all the money obtained by you from Hooper expended in the construction of these houses and for no other purpose?

A. Yes, sir.

Q. When this transfer was made to you by Hooper what information, if any, did you give to the insurance company or its officers of the transfer, or did you have any communication with the company direct in the matter?

A. Only through its general agent here.

Q. Please answer the question.

A. I told Mr. Hooper.

Q. You conveyed it to Hooper?

A. I know I told him.

(The following question is read to the witness by the examiner: "When this transfer was made by you to Hooper what information, if any, did you give to the insurance company or its officers of the transfer, or did you have any communication with the company direct in the matter?")

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Q. Did you tell any one else?

A. I did not think it was necessary to tell any one else. All the business was done through him.

Q. Did you do so?

A. No; I only told him.

Q. Did you communicate with any one else?

A. I do not understand what you want to get at by that question—Did I tell anybody else?

Q. In point of fact, did you notify the home office or any other person than Hooper of this transfer?

A. All the business that I ever had with the Massachusetts Mutual Life Insurance Company was done through Mr. Hooper and Mr. Sturtevant.

(The preceding question is read to the witness by the examiner.)

A. I made that transfer to the general agent and trustee of the insurance company and I supposed they would know it.

Q. Is that the only answer you have to give?

A. That is my answer.

225 Q. What did Sturtevant know of your transfer?

A. I do not know as he knew anything about it or not. I said all the business I did about it was done through these two men.

A. I am confining my question to the information that you gave to the company or any of its officers other than Hooper of this transfer.

A. Well, you have got my answer right down there, too, and when the court wants any more they can ask it. Put that down now. The court cannot want anything; if so, the court would order.

Q. Did you notify Sturtevant or had he any information, to your knowledge, of this transfer to Hooper?

A. I never told him, sir, anything about it.

Q. Had he any information, to your knowledge, of the transfer?

A. I never told him.

(The preceding question is read to the witness by the examiner.)

A. Not to my knowledge. Now I am a good boy.

Q. You have stated that certain payments were to be made to you from time to time on account of the loan by Hooper as the buildings progressed, and that such payments were not, in fact, made. What complaint, if any, did you make to the defendant the insurance company of Hooper's refusal to advance money from time to time to you on account of the buildings?

A. I did not make any complaint to the insurance company.

Q. At what time did Hooper first refuse to make payment

226 on account of these loans under the agreement?

A. Do you want that answered—the dates?

Q. Yes, sir.

A. I cannot give you the dates, but over and over again at different dates.

Q. Cannot you tell the first?

A. No, sir.

Q. How long before the transfer to Hooper?

A. That he refused?

Q. Yes.

A. (Referring to memorandum): I can give you about the time. I should think, to the best of my memory now, that I went to

Hooper in January and February a dozen or fifteen times and asked for money, just before the transfer was made in 1880.

Q. Did Hooper, prior to January, 1880, decline to make any payments on account of the buildings when, under the agreement, it was his duty to do so?

A. Yes, sir.

Q. State when. And the witness is requested to state what paper he now holds in his hand.

A. A memorandum made by me from my books to refresh my memory.

Q. You are again requested to put that paper out of your hand.

A. I won't do it, sir. I want to state here that every memorandum on that paper was made from my books without the assistance of any one whatever.

Q. Will you allow me to look at that memorandum?

A. No, sir; you get the book. That has got it all on. Any time you want it you can have it, and it is at the service of the court.

227 Mr. MOULTON: Is that the book of original entries?

A. Yes.

Mr. Edwards, counsel for the defendants, again objects to the interruption of the cross-examination by complainant's counsel.

The WITNESS: I will make this statement here in regard to refusals: That hardly ever, after the month of August, in 1879, that I ever made a request from Mr. Hooper that he did not refuse me, or cut me down to such an extent over and over again nearly every time after August that I made application to him for the advances. The word "advance" is not exactly right. It was used all the way through for what was due me. Everywhere that I have used the word "advance" in the testimony I mean what is due me instead of advance.

Q. When did you cease to make entries in your books of moneys received from Hooper or expended by you on account of these buildings?

A. I think it was in January, 1880.

Q. When did you first apply to Hooper after the transfer of this property to him for information concerning it?

A. Do you mean as to how we should settle?

Q. Yes.

A. I cannot give the date. I know I waited till I saw the property was completed and understood it was sold; about the time he completed all the houses. I cannot remember the month.

Q. After you made this transfer to Hooper what, if anything, did you do with the property? Did you assume any control

228 over it or management in any form?

A. No, sir; I did not; he would not let me.

Q. Did you try to? If so, in what manner?

A. I did not try.

Q. What complaint, if any, did you make to the insurance com-

pany or any of its officers but Hooper concerning the refusal on the part of Hooper, as you stated, to make payments to you, as you claim you were entitled to them from time to time?

A. Mr. Hooper was the agent of the company, and that company in law, I think, is responsible for his acts to me.

(The preceding question is read to the witness by the examiner.)

A. I did not see any of the officers, sir.

(The preceding question is read again to the witness by examiner.)

A. All my complaints were made to Mr. Hooper.

Q. Any other person?

A. I did not see anybody else to make any complaint to but Mr. Hooper, as agent of the company.

Q. Is this the only answer you have to make to this question?

A. Yes, sir. I think that is about the same question as the other.

Q. What complaint, if any, did you make to the insurance company or any of its officers concerning the completion of these houses after your transfer to Hooper?

A. I did not see anybody but Mr. Hooper, sir.

229 Q. Did you say anything to Hooper about it?

A. I do not recollect now.

Q. Do you not know that you did not say a word to him?

A. No, sir; I do not know.

Q. But you cannot say you did?

A. I cannot say I did.

Q. Did you ever apply to Hooper for a statement of the disbursements by him of the drafts sent to your order by the company on account of the $9,000 loan—the last loan obtained just prior to the transfer to you by Hooper?

A. I think I did, sir. I won't be sure. I know I have asked for statements several times before and since, but as to the dates I cannot tell you exactly what time.

Q. Can you say positively that you ever applied to Hooper for a statement from him of moneys expended on account of this $9,000 loan in the completion of the houses prior to or about the time you obtained a memorandum, which has been introduced in evidence, marked "Exhibit C. L. H. No. 4"?

A. I cannot remember, sir.

Q. What knowledge, if any, had you at the time of the filing of this bill concerning the transfer of this property by Hooper to Frank H. Smith in trust to secure $71,000 to the defendant company, which trust is dated on or about November 1st, 1881?

A. I do not recollect whether I did or not, sir.

Q. When did you find it out first?

A. I do not recollect now.

Q. Did you not know it at the time?

230 A. I do not remember.

Q. Do you not know that the amount of the indebtedness represented by your notes which the insurance company held on the

1st of November, 1881, was consolidated, and that Hooper secured a new loan for the purpose of cancelling your note and giving the deed of trust I refer to?

A. I do not remember now.

Q. Do you pretend to say that you had no knowledge, at the time of filing this bill, of this transaction?

A. I do not know when I gained that knowledge.

Q. You had it, did you not?

A. I do not remember.

Q. Did you ever write to the insurance company to ascertain what was the amount of your indebtedness to the company prior to filing your bill in this case?

A. I do not remember that I did.

Q. You knew where the home office of the defendant company was, and had known it ever since you had business transactions with it, had you not?

A. I did know, but I do not know now exactly. I have known where the home office was, but my memory is very bad.

Q. You knew the names of the officers—the president—did you not?

A. I did at one time; I do not remember his name now. I know the name of his agent, and I believe he squared his indebtedness to the company with my money.

Q. You were requested at a prior session, and also at the last session, you having forgotten it, to produce a letter written
231 to you by Hooper about the last of July, 1879, concerning the condition of the title of one of the 13th and Q street houses. Have you now that letter?

A. No, sir; I could not find it. Before I left home this morning I looked over my papers and could not find it.

Q. Then you are satisfied that it is lost or mislaid?

A. Lost or mislaid, if I had such a letter; I do not know whether I had it or not.

Q. You were also requested to produce a list of debts which you say you owed for material on account of the construction of these buildings when you transferred the property to Hooper. Have you now that paper?

A. Yes; there is a paper that I made the day that transfer was made; made it myself. It has not been ten seconds out of my possession since I made it. General Balloch made a copy of it. At the time I signed the deeds in his office he gave me a sheet of paper to write it on, and there it is (handing paper to Mr. Edwards). That paper has been in my pocket ever since I have been coming here, too, I think.

Q. After the transfer to Hooper what enquiry, if any, did you make concerning the payment of the indebtedness mentioned in this paper you speak of—whether he had paid them or not?

A. He promised at the time to pay them; to make these payments; to pay these people.

Q. I ask you what enquiry you made of the parties.

A. I do not recollect asking anybody else anything at all about it.

232 Q. Did you ask Hooper whether he paid them or not?

A. I do not recollect positively, but I think—let me look at that paper one moment, please. (After examining paper, being the lists of debts heretofore referred to:) I won't be sure, but I think I had a conversation after the transfer with Mr. Hooper in regard to some of these people, but when and which ones of them I am not confident. I did in regard to some of them. Mr. Hooper told me he paid one of these men here. I do not believe he did, because I think the man told me afterwards he never had. He accepted an order in regard to one of these things, I think, and then would not pay it afterwards. I think that was the way of it. I think that was the way with Thomas Somervill's debt.

Q. What is the aggregate amount shown by this paper?

A. $986.39. I think there was one of these bills here I afterwards paid myself, and I think I paid something to this old man by the name of Burke, a carpenter.

Q. Did you owe any other obligations on account of the building of these houses at the time of this transfer than those stated in that paper?

A. I won't be positive, but I think, to the best of my knowledge and belief, there were no other outstanding debts on the 16th-street property; but I won't be sure. I think it is a correct statement.

Q. Were there on the "S" street?

A. If there was anything at all they were very trifling amounts, and I notice there are some here. I do not think there was anything to speak of at all.

233 Q. What debts or obligations, if any, did you owe, other than those to the defendant insurance company, at the time you made this transfer to Hooper?

A. These are about all the debts and obligations that I owed (referring to list of debts aggregating $986.39).

Q. I wish to know what other debts you owed at this time.

A. Whether I owed anybody else anything? I totally refuse to answer that question; positively refuse.

(Adjourned to Tuesday next, the 13th instant, 1 o'clock, and the same place.)

234 NOVEMBER 16—1 o'clock p. m.

Met pursuant to agreement.

Present: H. B. Moulton, solicitor for the complainant, and James S. Edwards, of counsel on behalf of the defendants.

Whereupon the cross-examination of ROBERT A. BALLOCH resumed.

By Mr. EDWARDS:

Q. You were requested at the last session to furnish the contract or copies thereof which you spoke of which would show what the

contemplated expense would be in the construction of these houses. Have you these papers with you now?

A. No, sir; I have not.

Q. Why not?

A. Those contracts were verbal, with the exception of perhaps one or two that I cannot find. At the time of making those verbal contracts a written statement was made out in full and recorded in that black book, and there they remained.

Q. Then can you not tell by an inspection of that black book what was your estimate of the cost of the construction of these houses?

A. I can tell what my estimate was for the completion of these houses. They were not to cost beyond $1,500.00 each, except the corner one, and that was estimated at $3,000.00.

Q. But at the time of your transfer to Hooper none of the houses were, in fact, completed, were they, so as to know the actual cost of each completed?

235 A. Yes, sir.

Q. What house was completed?

A. I cannot tell you exactly. So many were sold nearly completed that it could be estimated within a very small amount. Only $200.00 was due on some of these houses, as I gave you in the testimony before.

Q. At the time of the transfer to Hooper did you leave any specifications or plans with him in relation to the construction of these houses?

A. No, sir; the majority of them were so near towards completion that they would not require any to finish them, with the exception, perhaps, of the corner house. That, of course, he could have made any change in, and no doubt he did. I do not know what changes were made in it.

Q. Were your applications to Hooper for these loans on this property oral or in writing?

A. I do not remember, sir, at this time.

Q. You are unable to state, are you?

A. I am unable to state.

Q. Where was Adams, the party from whom you purchased this property and for which you gave deeds of trust amounting to $14,200.00, living at the time of this transfer to Hooper?

A. At the corner of 8th and L streets, I think; somewhere about there; but all my business was done with Mr. Adams at the store of J. Bradley Adams, on F street. I never saw him at his house.

Q. Subsequent to the obtaining of these loans from the defendant insurance company up to the present time did you ever inquire of Adams to know whether your deeds of trust to him

236 for the purchase-money of this property had been paid or any part of it?

A. Not latterly.

Q. If you ever did, state when.

A. I cannot state when, but have asked Brad. Adams frequently, who was the administrator of his father's estate.

Q. Did you ever make enquiry of him subsequent to your transfer to Hooper?

A. I will not be sure, but I think I did.

Q. What makes you think so?

A. Because I think it would be very natural I should do so.

Q. Is that your only reason?

A. That is a good reason.

Q. No other recollection than that?

A. I believe I did.

Q. But you won't say you did, in fact?

A. I believe I did, honestly.

Q. After these loans were obtained by you from this company and up to the present time, did you ever make any examination of taxes at the collector's office to ascertain what, if any, taxes had been paid on this property that were due at the time you gave these deeds of trust to Hooper to secure these loans?

A. I do not remember, sir, of having done so.

Q. What difference, if any, was there in the terms or conditions in respect of these three loans and the disbursement of money from time to time by Hooper?

A. I think the terms were the same.

Q. Have you ever paid or tendered payment to this insur-
237 ance company or any interest on any of your notes held by that company since your transfer to Hooper?

A. No, sir; I do not remember that I have.

Q. You stated at the last session that you could give the exact amounts that had been expended toward the completion of these houses up to the date of transfer and what the balance would be at the completion of them. Now, tell me what amount had been expended on the houses when you transferred them to Hooper.

A. About $24,000.00 was expended in all on account of the construction of the houses at the time I transferred them to Hooper.

Q. Now, what have you to say as to the balance it would cost to complete them?

A. The difference between $1,500.00 a house on all but the corner house. It was estimated to cost $3,000.00.

Q. You have stated in your testimony that you could furnish an accurate statement of all the moneys that had been actually expended in the construction of these houses at the time of your transfer to Hooper. Now, I want you to give that information.

A. The amount of money that had been put in those houses I stated was $24,000.00.

Q. You mean exactly $24,000.00?

A. I do not.

Q. Why do you not give the exact amount?

A. I do not want to give an exact amount in this case. I have to approximate; I have to say $24,000.00 or less. I took
238 that little book, sir, for those amounts, but I might have made an error in adding up so many figures. I added it up $24,000.00 and a little over, so I will answer the question, $24,000.00 (reading from memorandum)—$24,049.05. Now, I might in taking

off so many figures have made an error. That is why I approximate $24,000.00, which ought to satisfy any reasonable man.

Q. Now, then, answer as accurately, if you can, what it would cost to complete them after your transfer to Hooper.

A. I do not remember what answer I gave to that question before, and I won't make that statement without looking at it again. If I make any positive statements, I want to do it from the figures in this case.

Q. Take the same figures that enabled you to testify in chief as to this item and tell us now, can you not?

A. No, sir; I cannot from memory. From time to time, as I have made memorandums, I have, after being examined, destroyed those memorandums; and I made that statement before.

Q. How long after you testified to this item in chief did you keep that memorandum and when did you destroy it?

A. I believe that I kept it until I commenced making new memorandums. That may have been one week and perhaps two weeks. I did not destroy it right at the time. I kept them almost a week or two weeks after making them and answering the questions; then, as the case progressed, I made new memorandums.

Mr. MOULTON: In relation to other things?

A. In relation to other things.

239 Q. State the source from which you obtained this rising $7,000.00, as you termed it, which you claim to have expended on account of the construction of these houses, other than from moneys obtained from the defendant the insurance company. I understand your counsel to say that you have declined to answer this question heretofore. My recollection differs from his. I want now your reply, if you have any to give.

A. I answered it before and I will answer it the same as then, that I will not state where I got the $7,000.00 or whatever it might be. It was not $7,000.00. Since making that statement "rising $7,000.00," in going over the books, I make it $6,928.63. You want to be fine on figures, and I want to give them to you.

Q. I have now obtained from you, by this answer, the exact amount, as you state, of this money disbursed by you from funds from your own means and other than obtained from this company. Where did you get the items making this aggregate?

A. Where did I get this?

Q. Yes, sir. Where did you get the items making this aggregate?

A. I got it from a memorandum I have at home taken off the books. The memorandum was made up at the time the money was put in by me and charged.

Q. Have you that memorandum with you?

A. No, sir; I have not.

Q. Where is it?

A. It is at my house, Rockville, Montgomery county, Maryland, United States.

Q. You are requested to produce it at the next session.

A. Well, perhaps I will.

(Adjourned to Monday next, the 19th inst., at 1 o'clock, and at the same place.)

240 NOVEMBER 21, 1883—1 o'clock p. m.

Met pursuant to agreement, the adjournment to the 19th inst. going over until to-day.

Present: H. B. Moulton, Esq., solicitor for the complainant, and Messrs. Edwards & Barnard, solicitors for the defendants.

Whereupon the cross-examination of ROBERT A. BALLOCH resumed.

By Mr. EDWARDS:

Q. At the last session you were requested to produce a memorandum showing your disbursements on account of the construction of these houses, aggregating $6,928.63. Have you that memorandum with you now?

A. No, sir.

Q. Why not?

A. I thought that was settled at the last session.

Q. I call your attention to the last question at the last session, which reads as follows: "You are requested to produce it," meaning this memoradum, "at the next session," and you answer, "Well, perhaps I will." By this you will observe that this matter of the memorandum we are referring to was not disposed of at the last session. I now ask you again if you have this memorandum. If you have so, produce it.

A. I told you that I could not separate that from the other funds that I got from the company.

Q. I want the memorandum which enabled you to testify that you took $6,928.63 of your funds, independent of money borrowed from this insurance company, and paid it out in
241 the construction of these houses before the transfer to Hooper. I simply want this paper.

A. I just made a memorandum from this book. I added up the entries as I went along in this book and made the aggregate as I gave you. That aggregate amount was taken from the entries in this book.

Q. We understand that perfectly, Mr. Balloch. But you have testified positively that you had a memorandum showing the items that you took out of this book, and that the aggregate sum was, as you have testified, $6,928.63. Now, I again ask you where is this memorandum?

A. This memorandum is right here (referring to memorandum in witness' hand). Do you see it? And that memorandum was taken from my books and papers.

Q. Will you allow me to see it?

A. No, sir. You asked me to give you that amount of money, and you have got it.

Q. Then you decline to produce that memorandum, do you?

A. When the court orders an audit in this case you will get it all.

(The preceding question is read to the witness by the examiner.)

A. Yes, sir.

(Cross-examination closed.)

242 & 243 Redirect examination.

By Mr. MOULTON:

Q. Mr. Balloch, you have stated that under your agreement with the defendants made at the time you conveyed this real estate to them that they were to complete the houses at once. Now, will you state whether or not they were immediately thereafter to sell them to the best advantage?

Mr. EDWARDS: That is objected to because the question states as evidence what has not been stated by the witness, and because leading.

A. Yes, sir. I thought I answered that before.

Q. Mr. Balloch, you stated on page 44 and 45 of the third session that you sold the Thirteenth and Q street houses subject to the trusts held upon them by the defendants. Please state whether or not the purchasers of said property assumed said indebtedness and paid the same to the defendants.

Mr. EDWARDS: That is objected to as leading.

A. Yes, sir.

Q. Please state from whom you bought the Massachusetts-avenue or Archer houses, how much you paid on them, and to whom you sold or conveyed them.

Mr. EDWARDS: I object to that question because it has al-
244 ready — answered.

A. I bought them from the Massachusetts Mutual Life Insurance Company and paid about $1,200 on those houses. I reconveyed one of them to the Massachusetts Mutual Life Insurance Company and the other one I sold to Mr. Mays, he assuming the indebtedness, which he afterwards paid, as he told me the other day, and made a loan with some one else at a lower rate of interest.

Q. Mr. Balloch, was the cash payment that you made on the houses that you conveyed back to the company ever refunded to you by the company?

A. It was not.

Q. Do you or do you not owe the defendants or any other persons anything on account of those houses?

Mr. EDWARDS: That is objected to as leading.

A. I do not.

Q. Mr. Balloch, do you owe the defendants anything on account of the 13th and Q street houses?

Mr. EDWARDS: Same objection.

A. No, sir.

Q. Mr. Balloch, will you please state from whom you bought the Sixth street or Howard house, how much you paid on it, and to whom you conveyed the same?

A. I bought it from the Massachusetts Mutual Life Insur-
245 ance Company. I forget now exactly the amount I paid on it; but immediately almost transferred the property to them.

Q. Can you approximate the cash payment you made?

A. I disremember at this time.

Q. Was it ever refunded to you by the defendants?

A. Never.

Q. On pages 71 and 72 of the 4th session you are asked if, "after the purchase of this property from Adams by you and the execution of your deed of trust to secure him the purchase-money, you did not place, prior to the execution of the deed of trust by you to Hooper to secure this $16,000 borrowed from the defendant insurance company, the following deeds of trust on this property: November 15, 1878, to Evans and Peck, on the north 15 feet of sublot 47, to secure the Washington Brick Machine Company $1,500, recorded November 16, 1878, in Liber 898, folio 426; December 16, 1878, to Evans and Peck, to secure the Washington Brick Machine Company $1,250, on the south 7 feet 6 inches of sublot 47 and north 11 feet of sublot 48; and the following deeds in fee: November 18, 1878, to Smith Pettit *et al.*, on the north 15 feet of sublot 47, which was recorded December 2, 1878, in Liber 903, folio 46; March 1st, 1879, to
246 Marvin Eastwood, of the south 6 feet 3 inches of sublot 47 and north 11 feet of sublot 48, recorded March 3, 1879, in Liber 907, folio 203. Now, Mr. Balloch, will you be kind enough to state whether or not either of the said conveyances above referred to applied or related to any part of the property included in the $16,000 loan?

A. They did not, sir.

Q. Mr. Balloch, will you explain what you mean in your testimony where you use the word "advance" respecting money received from the defendants?

A. I mean moneys due me on the loan.

Q. Mr. Balloch, please state whether or not during the progress of this work the defendants ever paid you any money that was not due at the time of such payment under the terms of your agreement with them.

Mr. EDWARDS: That is objected to as leading.

A. I think not, sir; never did think so.

Q. Mr. Balloch, did the agreement that you had with the defendant Mr. Hooper and, as you claimed, the defendant insurance company in relation to the payment to you of three-fourths of the net profits of the sale of these houses contain any specific agreement as to the time when settlement should be made of the amount due you?

A. It was understood that I was to be paid as sales were made, as the houses were completed and sales were made.

246½ Q. Did you at any time, Mr. Balloch, ever agree that you would wait till all the houses were sold before you would demand your portion of the profits?

Mr. EDWARDS: That is objected to as leading.

A. No, sir.

Q. Mr. Balloch, on page 152 of the 6th session the counsel for the defendants ask you to produce a certain list of debts that you owed for material, which list, you say, was made in the presence of Mr. Hooper and a copy given to him, and which said debts, you say, he agreed to pay. Have you that list with you?

A. I have it.

Q. When and where was this paper made?

A. At General Balloch's office.

Q. Who were present at the time?

A. Mr. Balloch and Mr. Hooper.

Q. To whom, if anybody, did you give a copy of this paper?

A. To Mr. Hooper.

(Said paper is offered in evidence by counsel for the complainant and marked "Ex. C. L. H. No. 10." A copy thereof is hereto annexed, the original to be produced at the hearing.)

247 ("Ex. C. L. H. No. 10.")

Dr. Josiah Curtis, president. Geo. T. Jones, vice-president.
G. W. Balloch, secretary.

Office of American Palm, Pulp and Paper Co., 632 F street Northwest.

Box 804. WASHINGTON, D. C., —— —, 18—.

Outstanding indebtedness on property in sq. No. 177 purchased from I. G. Adams by Rob't A. Balloch.

Merchant, cor. 13th & S Sts.	72	
" " 12th & Q St.	5	
Thos. Somerville	71	39
Edwards (plumber)	21	
Johnson (tinner)	17	
Williams (hardware)	3	
Plumley (frames), about	60	
Tinner, when he furnishes set	18	
J. R. Riggles (paints)	117	
Dr. Adams (order)	28	
Donaldson (sand)	11	
Hamilton (cord), 9th & D	3	50
Tom Smith	182	00
Brick Co.	17	50
Riley, about	12	
Concreting 2 S-St. houses	45	
Ayers & Belt	160	
I. G. Hester, about	60	
	903	39

248	Am't bro't up	903 39
	Mr. Burk	17
	Total	$920 39
	Chas. Kennedy	66 00

To be paid by Mr. W. R. Hooper before final settlement of the ¼ to himself and ¾ to be paid to whomsoever I may name to him.

249 Q. Mr. Balloch, several times while under cross-examination you have alleged that certain statements and figures given by you were taken from your book of original entries, and when asked to refer to such entries and such book you have stated that you could not do so while on the stand. Will you be kind enough to more fully explain why you could not make such references?

A. The book I made these memorandums from—there are hundreds of entries in the book, and it would be an utter impossibility for me to refer to them at the time I was asked or at any time without a long search for them.

Q. By whom, Mr. Balloch, were these books kept and who was your clerk during these transactions?

A. S. A. Terry.

Q. Was your clerk?

A. Yes, sir.

Q. Did he keep your books?

A. Yes, sir.

Recross-examination.

By Mr. EDWARDS:

Q. You stated that you paid to the defendant insurance company $1,200 in cash on account of the purchase by you from it of the two 2d street and Massachusetts avenue houses. Is not this $1,200 which you mention as cash the very money that was deducted from the loans when transmitted to you secured on the property in controversy?

A. Yes.

250 Q. Was not the cash which you speak of as paid to this company, whatever it might be, on account of the purchase of what you term the Howard house, on Sixth street, paid in the same manner, to wit, by deducting it from loans made to you by the company afterwards or about the time of the purchase?

A. I never got any of the money.

Q. Did you, in point of fact, pay to the defendant the insurance company any cash on account of any purchases by you from the company other than by deducting it from the loans of contemporaneous date by the company to you?

A. I think not, sir, now.

Q. What agreement, if any, was there between you and the defendant insurance company whereby you were to be released from

the obligations that company held of yours, to wit, your promissory notes secured by deeds of trust on property executed by you?

A. As they were paid—such notes as were paid should have been turned over to me.

(The preceding question is read to the witness by the examiner.)

A. I do not think there was any agreement.

Q. You have also stated in your redirect examination that you conveyed this property to the defendants. What other conveyance than the deed set out in the proceedings did you ever make or execute?

A. I do not remember of making any other deed than one to Mr. Hooper as agent of the Massachusetts Mutual Life Insurance Company.

Q. You persist in adding the word agent. There is no
251 objection to the word being used by you for what it may be worth. I simply am asking you now for the purposes of identity. Your deed is to Hooper individually, is it not, on its face?

A. And he was the agent of the Massachusetts Mutual Life Insurance Company, and all my business was done with him.

Q. I ask you, for the purpose of identifying the transfer that you state you made to the defendants, whether you do not mean the deed referred to in the pleadings and the testimony from you to Hooper filed as an exhibit with the testimony.

A. I do not know of any other deed. I know he was agent all the time.

ROB'T A. BALLOCH.

Sworn to and subscribed before me—

CHAS. L. HINE,
Examiner in Chancery.

Adjourned to Tuesday next, the 27th instant, 1 o'clock p. m., and at the same place.

252 NOVEMBER 27, 1883—1 o'clock p. m.

Met pursuant to adjournment.

Present: H. B. Moulton, Esq., solicitor for the complainant, and James S. Edwards, Esq., of counsel on behalf of the defendants.

Whereupon an adjournment is had to Monday, the 3rd day of December, 1883, at 1 o'clock, at the same place.

253 DECEMBER 3, 1883—1 o'clock p. m.

Met pursuant to adjournment.

Present: H. B. Moulton, Esq., solicitor for the complainant, and Messrs. Edwards & Barnard, attorneys for the defendants; also Seth A. Terry, Esq.

Whereupon—

(It is stipulated by the counsel for the complainant that the proceedings, with the depositions in behalf of the complainant, of this

session are not to be to the prejudice of the application for an order of the court requiring the complainant to give security for costs.)

GEORGE W. BALLOCH, a witness on behalf of the complainant, being duly sworn to tell the truth, the whole truth, and nothing but the truth, doth depose and say as follows:

By Mr. MOULTON:

Q. You are a resident of the District?

A. I am.

Q. You are acquainted with the complainant, Mr. Robert Balloch?

A. I am. I have been acquainted with him 20 years. I am 58 years of age to-day.

Q. Are you acquainted with the defendant Mr. Hooper?

A. I am. I have been acquainted with him 18 years.

Q. How were you engaged—employed—in February, 1880?

A. I was an insurance agent, secretary of the American Palm, Pulp and Paper Company, and did a general claim and patent business, and was also a notary public.

254 Q. State whether or not on or about that time you took an acknowledgment of a deed from Mr. Balloch to Mr. Hooper, and state all the facts in relation thereto.

A. I took an acknowledgment of a deed from Mr. Balloch to Mr. Hooper on the 26th of February, 1880.

Q. Who was present at this time, sir?

A. Mr. Hooper and Mr. Balloch. I do not remember that any one else was present.

Q. Do you know to what property the deed related?

A. I think some property on 16th street between S and T and I think some also on S street.

Q. Did you hear any conversation between Mr. Balloch and Mr. Hooper in relation to the terms of the transfer of the property? And, if so, state what and state all you know about the matter.

(Objected to because incompetent.)

A. In 1879, as I was informed and as I believe (here defendants' counsel interpose an objection and caution the witness from stating circumstances or facts on his information or belief), Mr. Balloch was engaged in building some houses on 16th street between S and T and also on S street between 16th and 17th, in this city; that he procured a loan on these houses from the Massachusetts Mutual Life Insurance Comapny, of which Mr. Hooper had been or was at that time the agent; that the money was in Mr. Hooper's hands to be paid as the buildings progressed. I am an insurance agent and had several of these buildings insured, and the policy was made
255 payable to Mr. Hooper, as trustee, in case of loss. Early in the winter of 1880 Mr. Balloch made complaint to me that Mr. Hooper had not paid over to him all the money that he ought to; that the building of the houses had stopped and he was having

a good deal of trouble about it. Finally some arrangement was entered into between them by which Mr. Hooper was to take the property and finish up the houses, sell them, pay himself a commission, and pay Mr. Balloch the equity. That arrangement consum-ated in the deed made February 26, 1880. When I was informed by Mr. Balloch that such an arrangement had been made I went to see Mr. Hooper about it. Mr. Balloch was owing me quite a sum of money, and Mr. Hooper said to me, "I have looked over the matter carefully—over the schedule of debts that Balloch has reported—and I think after finishing the houses and paying myself a good, liberal commission there will be at least $15,000.00 coming to Mr. Balloch, and if you will get an order from him I will pay you." I spoke to Mr. Balloch about it, and he agreed to give me the order, but never gave it. On the 26th day of February, the day that deed was acknowledged, Mr. Balloch made out in my office two schedules, one of which he gave to Mr. Hooper and the other he kept himself—schedules of bills due on the houses. They talked the matter over and made the arrangement about it, and asked me to witness it, but I did not dare to trust my memory and took this pencil memorandum which I have in my hand and which I have preserved ever since.

Q. Made at the time?

A. Yes, sir.

Q. In the presence of both gentlemen?

A. In the presence of both gentlemen. They were both there.

256 (The answer of the witness is objected to by counsel for the defendants because incompetent, immaterial, and irrelevant.)

Q. Mr. Balloch, be kind enough to read the memorandum you have in your hands.

(The same objection is made by counsel for the defendants as last aforesaid.)

A. (Reading from memorandum:) "Memorandum of agreement made this 26th day of February, 1880, between Rob't A. Balloch & Wm. R. Hooper—Mr. Hooper is to finish the houses on 16th street and S street, and when the same are sold he is to retain one-fourth (¼) of the net profits after all bills and demands are paid now standing against said Balloch on account of said property, the remaining three-fourths (¾) of the net profits to be paid to whomsoever I may hereafter name. It is understood that the bills named in the schedule are not to be paid until Mr. Hooper can arrive at the amount of equity in the property." That is all I know about it.

(Defendants' counsel also object to the answer.)

Q. Mr. Balloch, at the time of this transaction who was the agent of the Massachusetts Mutual Life Insurance Company?

A. I do not know of my own knowledge whether Mr. Hooper was or not. He had been previously, because he had insured my life in the company.

257 Q. This memorandum of bills you refer to—where was that made?

A. Mr. Balloch made it in my office. I furnished him paper for the purpose with the letter-head of the American Palm, Pulp and Paper Company on it.

Q. And to whom did you say copies were given?

A. Mr. Balloch gave one copy to Mr. Hooper and kept one himself.

Q. Look at the paper now shown you, and state whether or not that is the list of debts made out in your office by Mr. Balloch, a copy of which you testify was given to Mr. Hooper by Mr. Balloch (handing witness "Ex. C. L. H. No. 10").

A. (After examining:) That is the list to which I referred; that is the paper; yes, sir.

Q. Mr. Balloch, I now show you the original deed, marked "Ex. C. L. H. No. 9." Just look at it and state whether or not that is the deed to which you refer.

A. (After examining:) That is the deed to which I referred.

(The memorandum of agreement made by the witness is offered in evidence by counsel for the complainant and marked "Ex. C. L. H. No. 11." A copy is hereto annexed, the original to be produced at the hearing. Counsel for the defendants object to the introduction of the memorandum in evidence.)

258 (Ex. C. L. H. No. 11.)

Memorandum of agreement made this 26th day of February, 1880, between Rob't A. Balloch & Wm. R. Hooper.

Mr. Hooper is to finish the houses on 16th street & S street, and when the same are sold he is to retain one-fourth ($\frac{1}{4}$) of the net profits after all bills and demands are paid now standing against said Balloch on account of said property, the remaining three-fourths ($\frac{3}{4}$) of the net profits to be paid to whomsoever I may hereafter name. It is understood that the bills named in the schedule are not to be paid until Mr. Hooper can arrive at the amount of equity in the property.

259 Cross-examination.

By Mr. EDWARDS:

Q. What relation, if any, are you to the complainant in this case?

A. I guess about a sixth cousin.

Q. You stated that he was indebted to you at the time of this transfer to the defendant Hooper. How much did he owe you?

A. Somewhere about $3,000.00.

Q. Do you recollect recently of having a conversation with the defendant Hooper concerning what occurred and what was said and done in your office at the time you took the acknowledgment of this deed from Balloch to Hooper?

A. Mr. Hooper spoke to me a few days ago between the Patent Office and Post Office.

Q. State what occurred between you at that time—what was said by you to him concerning this matter.

A. He made a passing remark to me about the matter. I do not recollect exactly what he did say. He said to me: "Bob is making some pretty strong statements over there, saying you know all about this thing," and he said, "About all I recollect that passed between us was that you were glad it was in my hands; you would rather have it in my hands than in Bob's."

Q. State what you said to him.

A. I do not remember what answer I made to Mr. Hooper.

Q. Did you not say to him in substance that when the deed was brought to you as a notary you said Bob owed you a good deal of money; would not he, Hooper, pay it to you? that Hooper re-
260 plied he would if Bob gave you an order, if anything was due him in the matter; that you asked the complainant for that order, but he refused, saying the other creditors would not like it?

A. I did not say that to Mr. Hooper, sir, the other day.

Q. Did you not say that to him at or about the time of this transaction?

A. When I found out the transaction was to be consum-ated—the transfer was to be made—I am free to say that I did all I could to bring it about. I went over to Mr. Hooper's room in the Post Office Department to see him about the matter, to try to make an arrangement by which my debt could be secured. That was the time that Mr. Hooper told me what he thought Mr. Balloch's equity would be in the matter, and he did tell me, "If you get an order from him I will pay you." And I think I did tell him afterwards that Mr. Balloch refused to give me the order on the ground that Mr. Terry was to have a commission on the sale of the houses—I forget how much; $200.00 or $250.00 on each house—and he was afraid that Mr. Terry's friends would think he was trying to ignore his claim in some way. That is as near as I recollect it.

Q. Did not Mr. Hooper say to you, in effect, at this or some other interview at or about the date of this transaction, that if anything was coming to the complainant he would do what he could for you?

A. I have just stated that in substance, and that is the time he told me there was about $15,000.00 coming to Balloch.

Q. Was this statement by Hooper which you now speak of prior or subsequent to the execution of the deed?

261 A. I am not exactly certain about that. My impression is it was the day before. It was very near the time; either the day before or just after, when the matter was again brought up.

Q. Try and refresh your memory and see if it was not in point of fact subsequent to the execution and delivery of the deed to Hooper and, if not, why call on him before?

A. I called on him before because Mr. Balloch told me he had finally concluded to make the transfer.

Q. Then, do I understand you to say that this interview occurred prior to the execution and delivery of this deed?

A. That is my impression, but I won't swear to it certainly. It might have been after; very near the time.

Q. You state that you urged the complainant to make this deed to Hooper. Why?

A. Because I thought Mr. Hooper would finish up the houses and get more money out of them than Robert could himself.

Q. You identified "Ex. C. L. H. No. 10" as the statement of indebtedness referred to by you. When did you first see that paper?

A. I saw it the day it was made—the 26th of February, 1880.

Q. Where and who was present?

A. In room 30, Federal building. Mr. Balloch, Mr. Hooper, and myself were present.

Q. Who wrote it?

A. Robert A. Balloch.

Q. Did you see him write it?

A. I did—furnished him with paper.

Q. Did you see him make another at the same time?

262 A. I did; he wrote two.

Q. Did you compare them?

A. I did not.

Q. Did you read either?

A. I would not say that I did not compare them. I do not remember.

Q. Did you read them both?

A. I cannot remember. I only know that that is the document.

Q. Were they identical?

A. I have every reason to believe they were.

Q. Are you positive about that?

A. I am not.

Q. Why do you believe that they were identical?

A. From the reason that Mr. Balloch said to Mr. Hooper, "I have made this in duplicate. Here is one for you and I will keep the other."

Q. Did you see the complainant hand one of these papers at that time to Hooper?

A. I did.

Q. Are you positive?

A. I am.

Q. Are you as positive about that as you are that you compared them or more so?

A. I am positive that Mr. Balloch gave a duplicate of that to Mr. Hooper, or what he told Mr. Hooper was a copy.

Q. But you did not compare them, your impression is?

A. My impression is that is the schedule I referred to in my memorandum.

263 Q. Were there more than two such papers prepared at this time, to your knowledge?

A. I do not think there were.

Q. Are you positive of that?

A. I only remember seeing two.

Q. You have heard nothing about a third?

A. No, sir.

Q. Did not see a third?

A. Not to my recollection.

Q. I now hand you a paper which, for identification, is marked "Charles L. Hine, A." Tell me what you know about that. Did you ever see that before? I wish you to examine it carefully on its face and on its back.

A. I think that is a duplicate of the other.

Q. Do you identify that paper?

A. I identify it so far that it was made on the same paper as the other and dated the same as the other.

Q. Is it written by the same party?

A. It is.

Q. Did you see it written?

A. I do not remember that I did.

Q. How do you know that you saw the other written?

A. I furnished Mr. Balloch with the paper and he stood at my desk and wrote two statements, and this is the paper of the company of which I am secretary. I have no doubt but what it is a duplicate of the other.

Q. What is there as to the two papers which are now before you which enables you to say that this is a duplicate of the other,
264 and that, in fact, it is not an original?

A. One must be a duplicate if they are alike.

Q. Does that say duplicate?

A. No, sir.

Q. I am now showing you the paper which you did not refer to in your direct examination, and now I wish you to state, General, if there is anything in your remembrance—any mark on the paper or anything that enables you to say that this paper is not the paper that you saw at the time.

A. I saw them both.

Q. You are positive you saw them both?

A. I saw two statements. I saw Mr. Balloch hand one to Mr. Hooper and keep one himself.

Q. Now, I wish you to say what there is that enables you to state that the exhibit shown to you by the complainant's counsel, being marked "Ex. C. L. H. No. 10," is the paper written by the complainant at this time, having now seen both, and that the other paper is not in fact the original that was written by the complainant on this occasion.

A. I do not know which paper was written first, but Mr. Balloch stood up to my desk and wrote two statements, and I furnished the paper to write it on, and he gave one to Mr. Hooper and kept one himself.

Q. Which did he give to Hooper?

A. I do not know. I saw him have that one in his possession not a long while ago.

Q. The one you have testified to in your examination-in-chief?

265 A. Yes, sir.

Q. A month ago?

A. Yes, sir.

Q. Since the commencement of this suit, expecting him to call you as a witness?

A. I expected he did. I asked him if he had the copy of the schedule, and he said he had.

Q. You are unable to say which of these two papers were given to Hooper at this time, but you are clear that one was given to him? Now, refresh your recollection once more and see if you may not be mistaken as to that, and that you did not see in point of fact any paper delivered to Hooper at that time other than the deed, if that was delivered.

A. My impression is very strong that Mr. Balloch handed Mr. Hooper a copy of the schedule in my presence.

Q. You have testified that you took down a memorandum of the substance of the conversation between the complainant and the defendant Hooper, as you understood it, at the time of the execution of this deed. Why did you take that down?

A. Because I did not want to trust my memory with such an important matter as that.

Q. Why was it important to you?

A. Because I hoped to get my money out of it in some way.

Q. Will you allow me to see that memorandum, General?

A. Certainly (handing Mr. Edwards memorandum).

Q. Were you requested to make this memorandum by either of the parties; and, if so, by whom?

A. I do not think I was. I think I remarked to Robert Balloch, "This is rather too much to tax my memory with; I think

266 I will make a memorandum of it."

Q. Who was present at that time?

A. I think both were present—Hooper and Balloch.

Q. Are you clear about that? Had not Hooper gone?

A. I am not clear about it.

Q. Who did leave the office first?

A. I do not remember.

Q. Do you not know that Hooper did?

A. No; I do not.

Q. Cannot say?

A. No, sir.

Q. Did you read that memorandum over to Hooper at the time of the execution of the deed, or ever?

A. I read it over at the time I took it down, and asked if this was the understanding. I am sure they were both present.

Q. You say that you are sure you read this to Mr. Hooper?

A. I am quite sure I read it to both of them, so that there should not be any misunderstanding about it. They were both there. That was the substance of the agreement, and I wanted to see if it was all right, that I might not be mistaken.

Q. Try and refresh your memory, General, and see whether you have any distinct recollection, and, if so, what enables you to say that you did in point of fact, after you had written this paper, read it to Mr. Hooper?

A. I do not think I read it to Mr. Hooper individually, but read it over, so that both could hear it. I am quite sure of it.

Q. Was that before or after the execution of the deed?

267 A. After they came in there and talked the whole matter over, at the time the deed was executed.

Q. Look at these two papers, which appear to be statements of certain indebtedness and which you identified as written by the complainant at that time, and state if they are alike.

Mr. MOULTON: I object to the question because the witness has not identified the paper produced by the counsel for the defendants as having been written at the same time.

A. The gross amount of footing is the same in both.

Q. Is there not an additional statement written at the end of the one marked "Ex. C. L. H. No. 10," which you identified as the one shown you about a month ago by the complainant, as follows: "To be paid by Mr. W. R. Hooper before final settlement of $\frac{1}{4}$ to himself and $\frac{3}{4}$ to be paid to whomsoever I may name to him"?

A. There is. That is no part of the schedule of indebtedness.

Q. Was that there when you saw that paper in the office?

A. I do not remember.

Q. Can you say that it was?

A. I cannot.

Q. Can you say that it was not?

A. I cannot.

Q. Is it not your recollection that the two papers you saw were identical?

A. My recollection is that they were identical, as far as the dollars and cents were concerned, in the schedule of indebtedness.

268 Q. But you have testified that they were duplicates. Are they now duplicates?

A. Duplicates as far as the gross indebtedness—the aggregate amount—is concerned; at least they appear to be.

Q. Are they in fact duplicates? You understand the term.

A. They are not in the phraseology, because one has that addenda there.

Q. Why did you not at this time require the amount due you inserted in this list? Did you say anything about it?

A. The amount due me was no amount due on the construction of the houses.

Q. Has that debt to you ever been paid?

A. No, sir.

Q. What arrangement, if any, have you since had with the complainant concerning your indebtedness if he is successful in this suit?

A. None whatever.

Q. Has he ever given you any order?

A. No, sir.

Q. Has any one else who has any interest in it given you any order?

A. No, sir.

Q. You state that complainant told you that Terry's friends would object to an order being given you?

A. He was afraid they would object.

Q. What had Terry's friends to do with it?

A. I do not know.

Q. Did you not know that Terry was interested?

269 A. Robert told me that he had an interest as far as a commission on the sale of each house. He was to have either $200.00 or $250.00 a house.

Q. What other interest had he, if any?

A. Not any that I know of.

Q. He never told you that he had any?

A. No, sir.

Redirect examination.

By Mr. MOULTON:

Q. Mr. Balloch, state whether or not prior to this conveyance by Balloch to Hooper Mr. Hooper ever applied to you to use your influence with Mr. Balloch to induce him to convey to Hooper; and, if so, how frequently.

(Counsel for the defendants object to the question because incompetent and irrelevant.)

A. I do not remember certainly that Mr. Hooper ever made such an application to me. I know this: When I found out that *that* such a thing was contemplated I did all I could to bring it about.

Q. Have you any recollection of telling Mr. Balloch that Mr. Hooper wanted to see him for this purpose?

A. I think I did tell Mr. Balloch that Mr. Hooper said to me once, "If you see Mr. Balloch tell him I want to see him."

270 Q. Mr. Balloch, will you state from your best recollection how often that occurred?

(Defendants' counsel make the same objection as last aforesaid.)

A. Probably not more than once.

Q. Now, General, I understand you to say that this paper marked "Ex. C. L. H. No. 10" is one of the papers that was made in your office in your presence, a copy of which was given to Mr. Hooper; is that correct?

(Defendants' counsel object because the witness has not so testified and call the attention of counsel for the complainant to what he has stated.)

A. I believe it to be.

Q. Now, General, will you look at these two papers, the one that is marked "Ex. No. 10" and the one that has just been brought in

by counsel for the defendants, examine the phraseology at the beginning, and state whether it was ever intended to be a copy?

(Defendants' counsel object because incompetent and calling for the opinion of the witness.)

271 A. Not exact copies, except in the aggregate of the figures.

Q. The language is not the same?

A. No.

Q. General, this (referring to "Ex. C. L. H. No. 11") is a memorandum made at the time?

A. I made it at the time.

Q. Which you made in their presence?

A. I ask who you mean by them?

Q. Mr. Hooper and Mr. Balloch.

A. I was not willing to trust my memory on so important a matter and made that memorandum.

Recross-examination.

By Mr. EDWARDS:

Q. Now, General, I wish you to state whether you identify these two papers marked "Ex. C. L. H. No. 10" and the other for identification "Charles L. Hine, A," as the two papers which you state were written by the complainant in your office on this occasion, and that they are in the shape that they were originally written at that time?

A. As I stated before, I furnished Mr. Balloch paper and he stood up to my desk and made two schedules which, he said, were the schedules of outstanding indebtedness on those houses, one of which he kept himself and the other he gave to Mr. Hooper.

Q. Now, which of these two did he give to Hooper, can you identify? If so, state how you are enabled to identify.

A. I identify this one as being in his possession three or

272 four weeks ago.

Q. I do not care what you saw three or four weeks ago, General. The question is very plain. I wish you to state if there is anything that enables you to state which of these papers was given to Balloch at this time.

A. There is no mark. I cannot identify. I say, as I said before, he gave a schedule to Mr. Hooper and kept one himself. That is all I stated.

Q. You have also stated that there were but two written.

A. My impression is that only two were written.

Q. Did Balloch ever come to your office afterwards and obtain from you a sheet of this same paper bearing the heading of the American Palm, Pulp, and Paper Company, to your recollection?

A. Not to my recollection.

Q. These two statements are written on paper belonging to your office, are they not?

A. Yes, sir.

Q. And do you not honestly believe they are the two papers written on that occasion?

A. I do.

Q. And are you not, in point of fact, unable to state which of these two, if either, were given by the complainant to Mr. Hooper at the time of this transfer we are speaking of?

A. I have stated distinctly before that he gave a copy to Mr. Hooper and kept a copy himself. I cannot identify which
273 he kept himself and which he gave to Mr. Hooper. All I wish to state is the general fact.

GEO. W. BALLOCH.

Sworn to and subscribed before me this 3rd day of December, 1883.

CHAS. L. HINE,
Examiner in Chancery.

(Adjourned to Wednesday, the 5th day of December, 1 o'clock p. m., and at the same place.)

274 WASHINGTON, D. C., *December* 5, 1883.

Met pursuant to adjournment.

Present: H. B. Moulton, Esq., solicitor for the complainant, and Messrs. Edwards & Barnard, attorneys for the defendants.

Whereupon SETH A. TERRY, a witness on behalf of the complainant, being duly sworn to tell the truth, the whole truth, and nothing but the truth, doth depose and say as follows:

By Mr. MOULTON:

Q. Mr. Terry, where do you reside?

A. 444 O street N. W.

Q. Washington, D. C.?

A. Washington, D. C.

Q. How long have you resided in Washington?

A. Since the first day of August, 1865.

Q. Are you acquainted with Robert A. Balloch, the plaintiff in this case; and, if so, how long have you known him?

A. I have been acquainted with him since, I think, about the year 1869.

Q. How long have you been acquainted with Mr. William R. Hooper, one of the defendants?

A. About since, I think, 1875.

Q. State the various kinds of business in which you have been engaged since you have been in Washington.

A. I have been a Government clerk, a flour and feed broker,
275 notary public.

Q. What means have you of knowing of the business in which Mr. Balloch was engaged in 1878, 1879, or 1880?

A. Well, I was his book-keeper—kept his accounts for him.

Q. Have you a general knowledge of what he was doing?

A. Yes, sir. I superintended his work for him to a large extent.

Q. Will you, Mr. Terry, commence with your knowledge of Mr. Balloch's enterprise in the construction of a row of houses on 16th and S streets, in Washington, and state in the order of date and in the order of the transaction all you know in relation to it and all you know in relation to the purchasing of the ground and all conveyances given by him in relation to it? I want you to state in full.

A. It was in the fall of 1878 that he bought this property of, I think, John G. Adams.

Q. State the price and everything.

A. It was $14,200.00, I think.

Q. How evidenced?

A. Evidenced by notes secured by deed of trust upon the property. The property is in square 177, part of it facing on 16th street, part on S, and part on Swan. That was paying that much for the property subject to taxes. He commenced, I think, in November, 1878, a row of 10 houses on 16th street, commencing at Swan street and running south towards S—3-story houses with cellar and 2-story back buildings. Contracts were made with different parties for different classes of work, some oral and some written. The con-
276 tract with the Washington Machine Brick Company was oral. My recollection is that the price was $5.50 a thousand for merchantable brick—⅓ of salmon, ⅓ of select red, and ⅓ of arch. A verbal contract was made with William J. Sterling for laying this brick, he to furnish all mortar, at $3.75 a thousand, laying the fronts as press brick in black mortar. An oral contract was made with Gessford for the carpenter work at $22.00 for all carpenter work to put them under roof apiece; $25.00 apiece for preparing them for plastering, and $32.00 apiece for trimming out. A contract was made with a man by the name of Riley to do the pitching of all north and west walls at 90 cents a square. The excavating for the cellars was at 20 cents a cubic yard made with some man by the name of Brent and Schooler. A contract with Hobbs was made for plastering for $125.00 a house. All of these contracts that I have just named were oral. In regard to the roof I do not remember what it was. It was a verbal contract, but I do not remember what it was a house. I can tell what it amounted to.

Q. Give it any way.

A. I think the bill was $447.00 for the whole 10 houses. There was a written contract with a man by the name of Curtis, and I think Morton, for painting at $40.00 a house.

Q. Do you know where the contract is?

A. I do not.

Q. Now, Mr. Terry, just come down to about the time of the application to the defendants for a loan and tell us all about the condition of the property—the state of the improvement—at the
277 time the first application for a loan was made, and all you know in relation to it.

A. The first loan by the Massachusetts Mutual Life Insurance Company upon any of this property was made in June, 1879—the 4th of

June, I think, 1879—and was $2,000.00 a house on 8 houses, making $16,000.00. A plan—I do not know whether it was drawn by an architect or not—was exhibited by me to Mr. Hooper and afterwards to a man by the name of Sturtevant, who was the assessor of this company, and the loan of $2,000.00 a house recommended by Mr. Sturtevant as being amply secured when the houses were finished. The letter I received from Mr. Sturtevant I took to Mr. Hooper, who, I believe, forwarded it to the home office of the company, at Springfield, Massachusetts, and awaited their acceptance or rejection of the loan.

Q. This loan, as I understand you, was on the 8 houses?

A. On the 8 houses on 16th street.

Q. State the condition of the improvement at the time the application was made and the loan was recommended.

A. 5 of these houseswere under roof, and, I believe, rough coated; the cellars of the other three only were dug.

Q. State whether or not at that time they would have been sufficient security for the $16,000.00 if it had been paid over to Mr. Balloch.

A. No, sir.

Q. Now state whether or not the loan was made; and, if so, what the contract and agreement was as to the payment to Mr. Balloch of the money.

278 A. The loan was made, and the agreement was, so far as I understood it, a verbal one, and that the money was to be paid as the work advanced—one-half when the houses were under roof and the balance as the work advanced.

Q. What do you know of the manner of the payment to Mr. Balloch of this loan, if by draft or otherwise; and if by draft what he did with it?

A. The company forwarded drafts, I believe; most of them, if not all——

Mr. MOULTON: I am speaking of this loan now.

The WITNESS (continuing): Were to the order of Robert A. Balloch. When the draft was received Mr. Hooper notified Mr. Balloch to come there and endorse it, and Mr. Hooper retained the drafts and deposited them to his individual credit in the Second National bank. Mr. Balloch took Mr. Hooper's receipt for the draft and never kept any account of it further than he simply held the receipt that he might not charge up that against his account.

Q. Now, Mr. Terry, if you have stated all that you wish in relation to the first loan, please proceed and state your knowledge in relation to the second and upon what property it was made and the condition of the improvements at the time it was made.

A. The second loan was made in October, 1879, upon 6 houses on S street. The houses were under roof and ready for plastering. My recollection is that drafts for this loan came the same as in the first,

279 to Mr. Balloch's order, and were endorsed by Mr. Balloch, Mr. Hooper retaining the proceeds of same and depositing them as before, these drafts never being in Mr. Balloch's possession except for endorsement. The money held by Mr. Hooper, as agent

of the company, was to be advanced one-half when the houses were under roof and the balance as the improvements progressed. One-half was due at this time—at the time the loan was made.

Q. How was the balance to be paid?

A. As the work progressed.

Q. Now, Mr. Terry, will you state fully as you recollect the embarrassment, if any, that Mr. Balloch encountered in obtaining this money under the agreement that you have stated as the work progressed?

(Counsel for the defendants object to the question as leading.)

A. Mr. Hooper was often requested to advance money under this agreement, but refused to do so, and ofttimes would only advance money upon a commission being paid him for such advance. When I use the word "advance" I use it in the sense of money actually due, and perhaps, properly speaking, it should not be used.

Q. Now, will you proceed, Mr. Terry, and state your knowledge in relation to the third loan, giving the property upon which it was made and the condition of the improvements at the time it was made?

A. I was out of the city at the time the third loan was made.

Q. Do you know anything about the third loan?

A. I know about the application.

Q. Tell all about that.

280 A. That application was made for a loan upon 3 houses on 16th street of $2,000.00, making a loan of $9,000.00 upon four houses.

Q. What was the condition of those houses at the time the application was made?

A. 3 of the houses were nearly finished; the first story was up on the south side of the corner house, and on the north side 2 stories and a part. I think the front was also up one story—broken off as you proceeded north.

Q. Mr. Terry, will you state more in detail the embarrassment, if any, that Mr. Balloch encountered by reason of the failures of Mr. Hooper to pay over the money to him in accordance with the terms of the verbal agreement to which you have previously referred?

(The question is objected to be counsel for the defendants because leading, and for the further reason that it is a repetition of a previous question to which the witness, in response to the inquiry of counsel as to whether that was all he had to say, replied in the affirmative.)

A. That his declining to pay over this money caused distrust on the part of men working on the houses, who were cognizant to quite an extent of his refusing to pay, some of them obtaining this knowledge by presenting orders that were given them upon Mr. Hooper and his declining to accept them unless a commission was paid, often claiming prior to this a charge of a commission; that the houses were not sufficiently far advanced to justify him in making the advance or payment.

281 Q. What was the fact in relation to the sufficiency of security upon such occasions?

A. I do not think that any request was made of him that was not perfectly proper for him to grant. In one case he did consent to accept an order on the man promising to pay his pew rent in the Congregational church, of which Mr. Hooper was, as I understand it, treasurer. I might name a number of those cases. One was a case where goods were bought of Stephens & Co., of Baltimore, and after the goods were delivered Mr. Hooper declined several times to pay, causing the agent of Mr. Stephens to decline to sell any more goods to Mr. Balloch.

Q. Many cases of that kind?

A. Stephens is about the largest bill, I think. This trouble was repeated week after week, more or less.

Q. At the time you refer to was there money due Mr. Balloch under his arrangement with the defendants?

A. I believe so.

Q. State whether or not Mr. Balloch could on the property in its then condition obtain any further loans for the purpose of completing the houses while the defendants held these trusts upon the property.

(The question is objected to by the counsel for the defendants as leading.)

A. He could not; Mr. Hooper's trusts, being of record, became liens upon the property whether he advanced the money or not.

282 Q. Mr. Terry, state what the agreement was between the parties to this suit in the matter of paying the Adams trust, which was a first lien on the property.

(The question is objected to because the witness has not stated that there was any contract between the parties to this suit.)

A. It was to be paid off out of the first moneys advanced in proportion to the amount on each house or lot.

Q. Mr. Terry, was not the Adams trust to be paid or a portion of it to be paid out of the money retained by Mr. Hooper at the time the loans were made?

(Counsel for the defendants object to the question because leading and because already answered.)

A. My understanding was that it was to be paid out of the first moneys advanced.

Q. Will you explain what you mean by the first moneys advanced?

A. Half of the loan when the houses were under roof.

Q. Then, as I understand you, out of the first $8,000.00 that was paid on account of the loan on these eight houses the Adams trust resting on those eight houses was to be paid?

(Counsel for the defendants objects to the question as leading.)

A. Yes. The trust to Adams securing the deferred payment
283 was upon all the property, not individual trusts upon each lot.

Q. Mr. Terry, I understood you to say in the beginning of your testimony that you clerked for Mr. Balloch or kept his books. Am I correct in that?

A. Yes, sir.

Q. Did you keep any account of the money received by him from Mr. Hooper?

A. Yes, sir.

Q. In what form was that account?

A. Entries made at the time of moneys received.

Q. In what?

A. In the memorandum book I have in my pocket.

Q. Have you prepared a statement from that book of original entries showing the moneys received by Mr. Balloch from Mr. Hooper?

A. I have.

Q. Have you got it with you?

A. No; I think I gave it to you.

Q. Look at the paper I now hand you and state what it is (handing witness paper).

A. (After examining:) That is a statement made in part from that book and in part from information gathered from the records.

Q. Statement of what?

A. One side here—the credit side—shows the amount of money received from Hooper, agreeing with the book there. Then there is a calculation of interest. It is simply the interest at 8 per
284 cent. from the time the advances were made up to the time of the transfer of the property. There is also the balance of purchase-money due Adams at the time of transfer, interest on the amount due Adams on the deferred payments up to the date of transfer, an approximate amount as to taxes due upon the property, and the estimated cost of finishing the houses. The debit side shows the sale of houses and the value of unsold houses, the value of land, and of the equity in the sale to Pettit & Drips lost by Mr. Hooper in deeding the property to them or relinquishing them from carrying out their contract with Mr. Balloch.

Q. When was this statement made?

A. Since the commencement of this suit.

Q. The items, as I understand you, in this account showing the payment by Hooper to Mr. Balloch you took from this book of original entries?

A. Yes, sir; I want to state this in regard to that: that all that is shown on the book of original entries does not appear there for the reason that the commissions that Mr. Hooper charged and the amount of money agreed to be paid upon a house for which the Massachusetts Mutual Life Insurance Company had no good title was deducted; was not put in that statement for the reason that Mr. Balloch's attorneys did not think that they should be entitled to the credit or credits.

Q. Now, look at this statement and state to the examiner the amount of money received by Mr. Balloch from Mr. Hooper on account of these three loans (handing witness paper).

A. $14,724.73.

285 (Said statement is offered in evidence by counsel for the complainant and marked "Ex. C. L. H. No. 12." A copy is annexed hereto, the original to be produced at the hearing.)

(Counsel for the defendants object to the offering of the statement in evidence and the testimony of the witness in respect to its contents for the reason that it is hearsay and incompetent and irrelevant. For the convenience of this case defendants' counsel are willing that the witness may furnish a true copy of all the original entries he has in this book now before him of receipts from or credits to Hooper on account of the loans mentioned, but as to all other matters contained therein, and because the witness has stated that this paper is not even a true copy of his original entries, objection is taken to its admission.)

286 (Ex. C. L. H. No. 12.)

The Massachusetts Mutual Life Insurance Co.

Dr.

To sale of corner house (cor. 16th & S Sts.)			7,500
" " 6 houses on S St.			18,200
" " 1 house " 16th St.			3,500
" value of 10 houses on 16th St. at 3,500			35,000
" " of 9,875 feet of ground on Swann at 40c.			3,914
" difference between price sold at and am't received for the Pettit and Dripps house			1,250 69
Price sold at (or agreed upon)		$4,000	
Work done	1,875 66		
Am't p'd on brick Co.'s note	573 65		
" " taxes	300		
		2,749 31	
		$1,250 69	
			$69,364 69

287 In account with Rob't A. Balloch.

Cr.

1879.		
June 6th.	By am't p'd Sturtevant, assessor, 16.00; int. on 150, trust on 13th St., 7.50	23 50
	" balance of int. due on 13th St. from Jan'y, 12.50; insurance renewed on 2 houses, 13th St., 12.50	25 00
	" 4 insurance policies	20

1879.					
June	7th.	By cash for recording 8 trusts, 18; 1 ctf. from Ward. 1		19	
		" cash, $300; p'd brick Co., $300		600	
	10th.	" cash p'd Adams, $4,200; c'k to Balloch, 200		4,400	
	13th.	" draft J. D. Kitch endorsed payable July 9th		700	
	14th.	" cash		220	
	18th.	" " p'd brick Co.		189	
	21st.	" "		125	
	28th.	" "		240	
	30th.	" "		40	
July	3d.	" "		225	
	7th.	" order given Gen'l Balloch, ins.		20	
	10th.	" cash		130	
	12th.	" cash 1,000; int. on 3 houses on 13th St., 337.50; payment on No. 15, sqr. 722, 320.85		1,658	35
	19th.	" cash		300	
	22d.	" order given Smith		26	38
		" " "		45	
	26th.	" cash		300	
288	29th.	By order given Holbrook, accepted Sept. 10th for 90 days		300	
Aug.	9th.	" cash		700	
	16th.	" "		50	
	23d.	" "		30	
Sept.	6th.	" order given Wormley		125	
	8th.	" to pay off trust on 13th St.		150	
		" " taxes on 13th-St. house sold Smith		104	17
		" " am't p'd Ward		10	
		" insurance 60 days		20	
	10th.	" am't paid Stephens, of Balto., order on Tom Smith, 425		625	
	13th.	" cash, 60; p'd Bond's note of Mitchel, 27.25		87	25
	17th.	" order Cavely & Co.		47	64
	20th.	" am't p'd for centre pieces		23	
	27th.	" " Stephens, of Balto., 100; cash, 50		150	
Oct.	7th.	" " " " 200; cash, 50; cash, 12		262	
	10th.	" cash		60	
	15th.	" order Kennedy, 57.40; order Smith, 45		102	40
	18th.	" cash		100	
	23d.	" "		90	
Nov.	6th.	" " p'd Kitch		200	
Sept.	18th.	" cash		25	
Dec.	8th.	" am't p'd Stutevant, 10.20; recording, 22.25; insurance, 20		52	45

1879.				
Dec.	8th.	By am't credited on No. 15, sqr. 722, $208.33; nails, 14.85; cash, 6.42	229	60
289				
Dec.	8th.	By order given Somerville	94	50
	9th.	" " Tom Smith	162	74
	13th.	" am't p'd brick Co.	1,100	
		" order given Dennis Reilly, 27; cash, 50	77	
	16th.	" roof	100	
	20th.	" cash	100	
	27th.	" "	25	
1880.				
Jan'y	2d.	" " 7; order Smith, 33.75	40	75
		" order given Kennedy for lime	100	
	10th.	" cash	20	
	17th.	" "	12	
	19th.	" "	43	
			14,724	73
		Int. on above amounts from date of payment to time property was transferred, 8 per cent.	662	67
		Balance of purchase-money due Adams	9,946	66
		Int. on am't due Adams from date of notes up to transfer of property	788	46
		Taxes due on property at date of transfer (approximately)	4,200	
		Estimate- cost of finishing houses at time of transfer	8,300	
			$38,622	52
		Am't due R. A. Balloch to bal. ac.	30,742	17
			69,364	69

290 Q. Mr. Terry, you stated that the account just offered in evidence discloses a true statement of the moneys received by Mr. Balloch from Mr. Hooper, and that it was a true copy made by you from the book of original entries kept by yourself, except as to two or three omissions therefrom. Please state what those omissions are.

(Counsel for the defendants make the same objection as last aforesaid.)

A. —

1879, June 6, $400.00, commission.

1879, June 21, $2.00, commission.

1879, July 12, $2.00, protest on acceptance of $700.00.

1879, July 12, $479.15, cash payment on house on the corner of Second street and Massachusetts Av. N. W.

1879, July 29, $100.00, order not accepted.

1879, October 24, $100.00 paid Caverly & Co. on account of plumbing in house on the corner of Massachusetts avenue and Second street N. W.

1879, December 8, $255.00, commission for loan.

1879, December 8, $208.33, additional payment on house on the corner of Massachusetts avenue and Second street N. W.

1879, December 16, $94.50, order to Somerville not paid.

1879, December 22, order to pay Adams $5,000.00.

That is all.

Q. Mr. Terry, state why the items that you have described and which of them were not included in the account that we have offered in evidence.

291 (Counsel for the defendants objects to the question because already answered.)

A. Items of $400.00, commission; $2.00, commission; $2.00, protest; $255.00, commission, were not allowed because the attorneys thought that Mr. Hooper was not entitled to them. The item of $479.15, payment upon house on the corner of Second street and Massachusetts avenue N. W.; $100.00, work done on same house; $208.33, payment on said house, the attorneys said Mr. Hooper was not entitled to for the reason he had no title to the property. $94.50, order given to Mr. Somerville, Mr. Somerville informs me was never paid. Item for $5,000.00, order to pay Adams, Mr. J. Bradley Adams informed me was not paid until after the assignment of the property. For the above reasons these amounts were not included in the statement of account.

(Adjourned to Friday, the 7th inst., at 1 o'clock, and at the same place.)

292 DECEMBER 10, 1883—1 o'clock p. m.

Met pursuant to agreement, the adjournment to the 7th inst. going over until to-day.

Present: James S. Edwards, Esq., of counsel on behalf of the defendants, and the witness, Seth A. Terry, Esq.; also the examiner.

Whereupon, counsel for the complainant not appearing, an adjournment is had to Wednesday, the 12th inst., at 1 o'clock p. m., and at the same place.

293 WASHINGTON, D. C., *December* 17, 1883—1 o'clock p. m.

Met, pursuant to agreement, at the office of H. B. Moulton Esq., 701 7th street, N. W., the adjournment to the 12th inst. going over until to-day.

Present: H. B. Moulton, Esq., solicitor for the complainant, and James S. Edwards, Esq., of counsel on behalf of the defendants.

Whereupon the examination of SETH A. TERRY resumed.

By Mr. MOULTON:

Q. Mr. Terry, look at the plat which I now hand you, being "Ex. C. L. H. No. 10," and state when and where you first saw it.

A. I saw it at the District jail within a few days from the time of the transfer of the property, about the 8th of March.

Q. In whose possession was it then?

A. In the hands of Robert A. Balloch.

Q. Was it then just as it appears to be now, as to the contents?

A. There is no change in it.

Q. When were these houses to be completed, Mr. Terry, and, in point of fact, when were they completed?

A. I can only state what Mr. Balloch told me in regard to the agreement between him and Mr. Hooper when he turned the property over to him. I had no conversation at that time with Mr. Hooper.

Q. When were the houses completed?

A. I think in the early part of 1882.

Q. Some two years after the transfer?

A. About two years after the transfer.

294 Q. Within what length of time could those houses have been completed at the time of the transfer if proper diligence had been used in the completion of them?

(Objected to as immaterial and irrelevant.)

A. Seven of the houses on 16th street could have been finished in 30 days; six houses on "S" street could have been finished in 90 days; the corner house and the one nearest to it on 16th street could have been finished in four months.

Q. Have you a knowledge, Mr. Terry, of the extent or condition of the improvement- at the time of this transfer and of the probable expense of completing them which would enable you to state what that expense would have been?

(Objected to because incompetent and because the proper foundation has not been laid.)

A. I can state nearly the condition of each of the houses and give very near the cost of finishing them.

Q. Then, Mr, Terry, will you be kind enough to state what the necessary expense would have been to complete them? Please state in detail.

(Objected to for the same reason as before.)

A. Seven of the houses on 16th street, I think $200.00 apiece would complete them; one house on 16th street was completed and a tenant was living in it. I believe 5 of the houses on "S" street, it would take $400.00 apiece to finish; one house, the west one of the "S" street row, it would take about $2,500.00 to finish. The corner

house, it would take about $2,500 to finish; the one next to
295 that, it would take $900.00 to finish; the two north of that, it would take $500.00 apiece to finish.

Q. At a previous session, Mr. Terry, you started to give in detail the condition of these houses and the amount expended upon them up to the time of the transfer. Your statement was not completed. Will you be kind enough to restate the condition of each of these houses at the time of the transfer and the amount that has been actually expended upon them?

A. I can tell the condition of each of the houses, but as to what was spent on each house it would be impossible to tell. One of the houses on 16th street was finished. Seven of them had the doors and windows and sash hung, plastering all done, stairs all up, part of the painting done——

Q. Tinning?

A. Roofs all done, trimmings nearly—not quite—the only thing necessary to complete them being the finishing of the painting and some plumbing and hanging of the bells and perhaps a little trimming; I am not positive as to that, though. As to the "S" street houses—the floors were laid, the stringers up, the lathing all done, and five of the houses rough-coated, and door jambs all up and roofs on. I believe that was all in regard to them. As to the corner house, the south wall was up one story, the east wall of the bay window was left jagged, the south part of it being up one story and rising as you went north; the north wall was nearly but not quite up. As to the three houses north of that, the brick-work, I think, was fully done and sheathing on two, if not on three, of them, but I think the roof was not on. The sheathing and inside shutters and
transums of the two north of these three were in one of the
296 other houses. I think that was the condition of them. As far as I remember, all the back fences of the 16th-street row were up.

Q. In your previous answer did you state the aggregate amount necessary to complete the houses? If not, state the amount.

(Same objection as before.)

A. $8,300.00.

Q. State what efforts you made to ascertain the amount necessary to complete them and upon what in addition to your own judgment you base the estimate you have given.

A. The contract for the plastering of the "S"-street houses was made with Hobbs at $100.00 a house. I inquired of those who had the work to do, outside of my own figuring. I inquired of them as to what it would cost to finish each house.

Q. Did they give you estimates?

A. They did.

Q. Were those estimates in excess or under the figures you have given, or the same?

(Objected to as incompetent.)

A. On the 16th-street houses they were less than I have named.

In regard to the "S"-street houses they were in harmony with what I have stated. This answer has reference to all except the corner and the next three houses. That was based wholly upon my own figuring.

Q. Mr. Terry, did you or did you not have a general knowledge of Mr. Balloch's business affairs with these defendants?

A. I did.

Q. State whether or not, if you know, he was indebted or
297 is indebted to the defendants on account of the 13th-street houses.

(Objected to.)

A. No, sir; he was not. At the time the first loan of $16,000.00 was made there was $12.50 due Mr. Hooper, as agent of the company, as interest due the 1st of January, which was paid or kept out of the first money paid over by Mr. Hooper and the amount credited to the company.

Q. Did you understand that he had obtained loans from the defendant company on account of those houses?

A. He had.

Q. How were those loans satisfied?

A. By sales to parties and assumed by parties purchasing from him and subsequently, I think, with but one exception paid.

Q. How was that exception arranged?

A. The interest has been paid right along by the party purchasing and the reduction in the rate has been made by the agent of the company.

Q. Who was the party that purchased?

A. J. Richard Riggles.

Q. Was Mr. Balloch at the time of this transfer or is he now indebted to the defendants on account of the Archer houses or Massachusetts-avenue houses?

A. No, sir.

Q. Will you state now how that matter was adjusted and settled?

A. One of the houses deeded by Mr. Hooper to Mr. Balloch he had no title for. That property was redeeded by Mr. Balloch to Mr. Hooper. On the other one a second trust was obtained from William Mayse, who assumed the first, and, I believe, has since
298 paid it.

Q. Mr. Terry, will you state your knowledge of Mr. Balloch's transaction with the defendants, the company and Hooper, in relation to the 6th-street or Howard house?

A. Mr. Balloch redeeded that to the company. He never got anything out of it. It was deeded by Mr. Hooper to Mr. Balloch and redeeded by Mr. Balloch to Mr. Hooper.

Q. Deeded it back to him?

A. Deeded it back to him.

Q. What do you know, Mr. Terry, if anything, about the sale of these houses by Hooper or the defendants since the transfer by Balloch to them?

A. I know what the record shows.

(Objected to because incompetent.)

Q. State if you examined the record first.

A. I examined the record.

Q. The land records of the District?

A. I have examined the land records of the District and find a transfer of the corner house to Mrs. Reynolds, I think.

Q. How much?

A. $7,500.00. An agreement has been recorded in four of the "S"-street houses to deed when $500.00 has been paid in each case. In three of these cases the deeds have passed, the consideration being $3,000.00 apiece. In regard to the fourth the agreement has been recorded, but no deed seems to have been passed. The consideration money in the agreement is $3,000.00. These are all the agreements or deeds of sale I have found.

299 Q. What lots do these three deeds and agreement refer to?

A. The deeds refer to lots 22 and 23, in square 177, according to Adams and Duvall's subdivision fronting on "S" street. The agreement for which no deed has passed is lot 21, in the same square, on the same street. [There was a party came to see me who desired to invest some money in property in the northwestern part of the city, and asked me if I knew where they could get a good property that I thought would pay well. I sent him to see Mr. Smith, who then had the houses for sale, telling him if he could get one of the "S"-street houses I thought he would not regret it under the terms I understood he was then selling upon. He afterwards reported to me that Mr. Smith, Jr., informed him that all of the "S"-street houses were sold.]

(That portion of the last answer embraced within the brackets marked by the examiner is objected to because incompetent.)

Q. Mr. Terry, what was to have been the entire cost of these houses under your verbal and written contracts at the time Mr. Balloch undertook to build them? How much a house?

(Objected to because incompetent and immaterial.)

A. They were not to exceed $1,500.00 apiece, except the corner house.

Q. Mr. Terry, state whether or not at my suggestion you have made a calculation of the rental value of these houses from the time that they should have been completed down to December 1, 1883.

(Objected to because incompetent and immaterial.)

300 A. I have.

Q. Look at the paper I now hand you and state whether or not that is the result of your calculation.

(Same objection.)

A. It is.

(Said paper is offered in evidence by counsel for the complainant and is marked "Ex. C. L. H. No. 13." The introduction of this paper is objected to for the same reasons as above. A copy is hereto annexed, the original to be produced at the hearing.)

(Ex. C. L. H. No. 13.)

Supplementary Statement.

The Massachusetts Mutual Life Ins. Co. of Springfield, Mass., to Robert A. Balloch, Dr.

1883.			
Dec. 1.	To am't due as per bill rendered	$30,742	17
	" rent of eight houses on 16th street N. W., being numbers 1808, 1810, 1812, 1814, 1816, 1818, 1820, and 1822, from April 1, 1880 (at which time they should and could have been completed), to Dec. 1, 1883, 42 months, at $25.00 a house per month	8,400	00
	" rent of three houses on 16th street N. W., being numbers 1802, 1804, and 1806, from July 1st, 1880 (at which time they could and should have been completed), to Dec. 1st, 1883, 39 months, at $25.00 a house per mo.	2,925	00
301	" rent of three houses on "S" street N. W., being numbers 1603, 1605, and 1609, from June 1st, 1880 (at which time they could and should have been completed), to Dec. 1st, 1880, 40 months, at $20.00 a house per mo.	2,400	00
	" rent of house No. 1613 S street N. W. from June 1st, 1880 (at which time it could and should have been finished), to date of sale, May 1st, 1883, at $20.00 a month	700	00
	" rent of house No. 1611 S street N. W. from June 1st, 1880 (at which time it should and could have been finished), to date of sale, Oct. 1st, 1883, at $20.00 a month	800	00
	" rent of house No. 1607 S street N. W., from June 1st, 1880 (at which time it should and could have been finished), to date of sale, March 1st, 1883, at $20.00 a month	660	00
	" rent of house N. W. cor. of 16th & S streets N. W., from July 1st, 1880 (at which time the house should & could have been completed), to M'ch 1st, 1882 (about the date of sale), at $50.00 per month	1,000	00
	" interest on the above rents at 6 per cent. per annum to Dec. 1st, 1883	1,602	88

To interest on proceeds of sales of houses from date of sale up to Dec. 1st, 1883, at 6 per cent. per annum ---------- $982 50

$50,212 55

302 Q. Will you state from that paper the total amount of rent since the time the houses should have been completed down to December 1st, 1883?

(Same objection.)

A. $16,885.00.

Q. Have you made a calculation of the interest on those rents and proceeds of sale down to the 1st of December, 1883? If so, state what that amounts to.

(Same objection.)

A. I have; $2,585.38.

(Adjourned to Thursday, the 20th inst., at 1 o'clock p. m., and the same place.)

303 WASHINGTON, D. C., *January* 7, 1884—1 o'clock p. m.

Met, pursuant to agreement, at the office of H. B. Moulton, Esq., 701 7th street N. W., the adjournment to the 20th ult. going over until to-day.

Present: H. B. Moulton, Esq., of counsel on behalf of the complainant, and Messrs. Edwards & Barnard, attorneys for the defendants.

Whereupon the examination of SETH A. TERRY resumed.

By Mr. MOULTON:

Q. Are there any corrections you desire to make?

A. I wish to correct the statement I made in regard to being out of the city at a certain time. I am satisfied that I was wrong. I was in the city.

Q. When was it?

A. At the time of the transfer of the property from Balloch to the insurance company.

Q. Have you any knowledge, and, if so, state what, in relation to the release of the deeds of trust given to secure the defendant insurance company since the conveyance of the property by Balloch to Hooper for their benefit?

A. I took a copy of the release, executed by, I think, the president of the company and Mr. Hooper, from the city land records.

Q. Releasing what?

A. Releasing the notes secured by the trust executed by Mr. Balloch to the Massachusetts Mutual Life Insurance Company to secure them $35,200.00.

Q. Have you a copy of that?

A. I have.

304 (Said paper is offered in evidence by counsel on behalf of the complainant and is marked "Ex. C. L. H. No. 14." The heading of said paper is herewith copied into the record, the entire paper to be produced at the hearing. Counsel for the defendants consent to this copy being introduced in evidence, to have the same effect as if the original was produced and duly proven, save to all objection as to its competency and relevancy.)

("Ex. C. L. H. No. 14.")

William R. Hooper, Tr., to Robert A. Balloch. } Release. Recorded March 21, 1882—1 p. m.

Q. If I recollect correctly, Mr. Terry, you stated that Mr. Hooper frequently declined to let Mr. Balloch have money to go on with the improvements. State, if you please, what effect that had on Mr. Balloch's business.

(Objected to as leading.)

A. Nearly every Saturday night a demand was made on Mr. Hooper for a certain amount of money to pay the men. He invariably declined to give the amount asked for, saying that he did not believe the work was done, and the men not getting their money as they expected on Saturday night often did not commence work until towards the middle of the week, and it seriously interfered with the successful prosecution of the work.

Q. State, if you know, whether or not the work referred to had been done.

305 A. The work had been done and more than Mr. Hooper was asking for it was necessary to use in paying the men. The amount that Mr. Balloch raised had been deducted from the pay-roll previous to asking Mr. Hooper for the balance.

Q. If you are aware of any other fact material to the issue in this case please state it.

A. I do not know of anything but what has been stated; do not think of anything now.

Cross-examination.

By Mr. EDWARDS:

Q. I understand you to say that you were not present at the time of the execution and delivery of the deed by Balloch to Hooper conveying the property the subject of this controversy. Where were you?

A. In the city jail.

Q. When did you go there and how long were you there?

A. I went there on the 22d or 23d day of January, 1880, and remained until about the 31st day of July of the same year.

Q. You were not present, were you, and did not see Balloch's deed delivered to Hooper and did not know anything about the transaction of your own knowledge, did you?

A. I did not.
Q. When did you first learn it?
A. Within two or three days after it was done.
Q. Where did you receive the communication and from whom?
A. Mr. Robert A. Balloch told me of the transfer.

306 Q. Are you the same Seth A. Terry who was present when the plaintiff, Robert A. Balloch, first testified in this case before the examiner?
A. I am.
Q. You heard the objection, did you not, made by counsel for the defendants that you retire?
A. I did.
Q. Did you?
A. I did not.
Q. Why not?
A. Because Mr. Moulton said I might remain.
Q. Was that your only reason?
A. That was my only reason.
Q. Have you attended any other sessions during which Mr. Balloch testified or any other witness in this case?
A. I have attended two or three sessions of Robert A. Balloch's, and I think I was here during part of the testimony of General Balloch.
Q. Have you not, in fact, attended nearly all or the greater portion of the sessions during which testimony has been given in this case?
A. I believe I have.
Q. Why did you attend those sessions?
A. Simply because Mr. Moulton requested me to.
Q. What interest, if any, have you in this case?
A. None whatever.
Q. Have you any interest in the property the subject of the controversy in this case?
A. No, sir.

307 Q. Did you ever have any?
A. Never; only a contingent interest—so much a house when the houses were sold. I was to receive $250.00 a house when they were sold and $50.00 a house for superintending them.
Q. Was that your agreement with Mr. Balloch?
A. Yes, sir.
Q. Is that now in force?
A. No, sir.
Q. Why not?
A. After my trouble I closed up the Balloch—everything. I was to have the $50.00 on the houses as the work advanced. I got out of them, I think, some $600.00 or $700.00. The other interest Bob asked me in regard to and I told him, says I, "The houses being in an unfinished condition, I could do nothing more in regard to them and want to relinquish all interest I had in them."
Q. When was that relinquishment given?
A. About June, 1880.

Q. You state that you got about $600.00 or $700.00 out of these houses. In what manner did you get it?

A. In money.

Q. From whom?

A. Part from Balloch and part from Hooper.

Q. State the amounts from each.

A. About $500.00 from Hooper and the balance from Balloch.

Q. How came you to obtain that from Hooper? Did Balloch give you orders on Hooper for it or what connection, if any, had this $500.00 to the moneys held by Hooper on account of the
308 loans made by the defendant insurance company to Balloch?

A. Part of this money was money that Hooper retained on account of interest on account of the 13th-street property and the balance was money received from Hooper along with other moneys for work out there and permitted to go to me, and there was about $30.00 or $40.00, I think, that I had borrowed from Hooper, and, I think, in that case Mr. Balloch gave me an order to permit Mr. Hooper to charge that up to him.

Q. Then, it is not a fact that this $500.00 which you received from Hooper was a portion of the moneys held by Hooper on account of Balloch from the proceeds of loans made to him by the defendant insurance company?

A. Yes, sir.

Q. Did you not from the time Balloch first applied for and obtained a loan from the defendant insurance company on the security of the 16th and "S" street houses up to the 23d day of January, 1880, have entire control and management under his authority of these houses and their construction?

A. So far as the making of the loans and the superintending of work, yes.

Q. Anything you did in respect of the loans or the matter of the building of the houses was the same as if done by Balloch, was it not?

A. I so understood it.

Q. Had you not that authority from him in terms?

A. Yes, sir.

309 Q. What part, if any, did you take in the matter of the application to the defendant insurance company for the first loan of $16,000.00 on this property?

A. I believe I was the first one that approached Mr. Hooper in regard to the matter.

Q. Was not the loan, in fact, negotiated through you?

A. Well, I do not know as through me any more than through Mr. Balloch. He was with me at most of these meetings I had with Mr. Hooper. I think I wrote an application—I am not positive about that, though—for this loan by direction of him, after talking with him about it and after talking with Mr. Hooper about the probability of his being able to secure from the company a loan.

Q. What do you know about the examination of the property given as security for this $16,000.00 loan by the insurance company or any of its agents prior to the loan being agreed to?

A. I have no knowledge. Either the assessor, Mr. Sturtevant, or Mr. Hooper visited the property. A plan of the buildings was shown to Mr. Sturtevant, the assessor, and he said that if such a house, I believe, is built that when completed he believed it would be good security for so much money.

Q. How much?

A. $2,000.00 apiece.

Q. Do you not recollect of going with Hooper to look at the houses or property intended and promised as security for this $16,000.00 loan prior to the execution of the trust to secure it?

310 A. I do not.

Q. Do you say that you did not?

A. I will not say that I did not. I will say that I do not remember that I did any such thing, nor do I think I did.

Q. You are familiar, are you not, with the plat of these lots fronting on 16th street and the numbers thereof, and can place them from recollection, can you not?

A. Yes, I guess I could; I would have to figure on them.

Q. Now, these lots as appear on this plat, "Ex. C. L. H. No. 1," introduced in evidence, are numbered from 87 to 100, inclusive. Tell me where lot 100 is.

A. Corner of 16th and S.

Q. And where is lot number 87?

A. Corner of Swan and 16th streets.

Q. Where are the others?

A. Between these two.

Q. Then the lot on the corner of Swan and 16th streets is the lowest in number, being 87, and the lots then increase regularly to 100, which is on the corner of 16th and S streets.

A. Yes, sir.

Q. Were these lots so numbered and did they front in the same way that this plat shows when the application was made by you to the defendant insurance company for this loan of $16,000.00?

A. Yes, sir.

Q. Do you recollect of preparing a plat and of submitting it to Hooper prior to that loan being consum-ated?

A. No, sir.

311 Q. What have you to say about it?

A. I do not think I ever made one.

Q. Look at the paper I now show you and tell me if you recognize it (handing witness a paper).

A. Yes, sir; that is my writing.

Q. Examine it carefully, both on its face and on its back, and — if you are not able to identify it.

A. Yes; I do identify it as to my handwriting.

Q. Did you ever see that before?

A. I must have. I made it. I recognize my figures and my writing on it.

Q. What do you know about it?

A. I know in regard to this plat that it was made for Mr. Hooper after the loans had been made.

Q. How do you know that?

A. He never requested a plat until after they were made and some time after.

Q. How long after the loans were made did you furnish that plat to Hooper? State the circumstances and how you came to furnish it.

A. I remember that Hooper requested a plat, and that I made that, I should say, at least 3 months after the loan was made.

Q. You speak now of the $16,000.00 loan?

A. Yes, sir.

Q. Was that prior to the other loans having been made?

A. I cannot state positively as to that, but I think it was about the time the second loan was made; but I won't state positively.

312 Q. The first loan included what lots? Give the numbers of them.

A. The first loan included lots 99, 98, 97, 96, 95, 94, 93, and 92.

Q. What did the second loan include?

A. The second loan included 6 houses on "S" street, on lots numbered 18, 19, 20, 21, 22, 23 of the same square.

Q. Where did you make the plat which you are now speaking about as in your handwriting?

A. I cannot state positively; I think I made it at my office.

Q. You gave it to Mr. Hooper, did you?

A. I did.

Q. Have you ever seen it since until just now shown you?

A. Not to my knowledge.

Q. Is this plat correct (handing witness plat above referred to)?

A. No, sir.

Q. State wherein it differs from the true plat.

A. That 100 appears in this plat next to the corner of Swan street and the numbers decrease running towards S street, whereas in the correct plat the 100 is the corner of Swan and 16th streets and decrease running towards Swan.

Q. State the condition of the improvements on these lots at the time the $16,000.00 loan was made upon the hypotheses that this plat, which you state is in your handwriting, was correct.

Mr. MOULTON: I object to the question, inasmuch as the
313 witness states that the plat was not made until long after the loan was made.

A. If this plat had been correct, then the houses on which the $16,000.00 loan was secured were under roof, floors in, and, I think, studding up.

Q. All of them?

A. In all of them; yes, sir.

Q. In point of fact, were the houses that actually stood on the lots 99 to 92, inclusive, improved in the manner you have just stated?

A. No, sir; 5 of them were and 3 were not.

Q. What was the condition of the other 3?

No. 21. Ballock v. Hooper et al. } p. 314

A. Nothing but the cellars dug and the north wall of the corner house all the way up and a little of the front wall.

(Said plat is offered in evidence by counsel for the defendants and is marked "Ex. C. L. H. No. 15." A copy is hereto annexed, the original to be produced at the hearing.)

(Here follows diagram marked p. 314.)

315 Q. You have stated that when this $16,000.00 loan was made the agreement was that the money was to be paid by Hooper as the work advanced, one-half when the houses were under roof and the balance as the work advanced. Can you tell when all the houses given as security for this $16,000.00 loan were under roof?

A. I think about March, 1882.

Q. Were they under roof when Balloch conveyed the property to Hooper?

A. No, sir; I think not.

Q. Then, in point of fact, under this agreement, was Balloch entitled to any of this $16,000.00 at the time he conveyed the property to Hooper according to your own statement?

A. I think so.

Q. How much?

A. That would be very hard to tell just how much. 5 of the houses were almost finished at that time and the other 3 were up, and, I think, the sheathing on two if not on three of them, but I do not think the roof was on. I should say, approximately, $14,000.00.

Q. But you say that the agreement was that Balloch was to receive one-half of the money when the houses were under roof. Now, tell me how many houses included in this $16,000.00 loan were under roof when he conveyed to Hooper.

A. 5 were actually under roof at that time.

Q. Now, Mr. Terry, tell, if you can, how much money had been advanced by Hooper to Balloch on account of this $16,000.00 loan when he conveyed the property to Hooper.

316 A. About $8,000.00; might have been a little more than that. After the second loan was made I do not remember and cannot state how much money was advanced and should be credited upon the first $16,000.00 loan, and so on with the third loan.

Q. Are you able to state in point of fact just how much money had been advanced or paid by Hooper or he was entitled to credit for on account of this $16,000.00 loan at the time of the transfer to him by Balloch?

A. No, sir.

Q. Do you not know that from time to time you made up statements with Hooper showing advances by him and credits that he was entitled to on account of these severals loans prior to the transfer to him by Balloch?

A. I do not remember of ever making up any with but one exception. I think we did make up one statement from his books and from a memorandum that I took from Balloch's.

Q. When was that—prior to the transfer?

A. Prior to the transfer.

Q. Were there any material differences between you?

A. I think not.

Q. Did you not adjust them if there were?

A. I think so; I cannot state positively.

Q. Look at the paper I now show you and see if you do not recognize that (handing witness paper).

A. Yes; it is in my handwriting.

Q. All of that?

A. Every bit of it, I think.

Q. What is it?

317 A. It is a memorandum of statement taken, probably, right from the book of Mr. Balloch's, showing the amount that Mr. Hooper was entitled to credit for. That is what I should state it was.

Q. Credit for what?

A. For money advanced or kept out.

Q. Which loan?

A. First and second.

Q. Well, are you not able to tell from that statement how much money had been advanced or Hooper was entitled to credit for on account of this $16,000.00 loan at the time he made it?

A. No, sir; not by this statement.

Q. Why not?

A. Because it embraces part of the second loan.

Q. How much of the second loan?

A. About $1,200.00 of this seems to have been from the second loan.

Q. What is the total amount of credits shown there?

A. $13,525.84, if it is added right. I have not gone into the addition at all.

Q. From which, you say, should be deducted $1,200.00 on account of the second loan, as you make it. Is that correct?

A. Yes, sir.

Q. The first item credited to Hooper in this statement is dated June 6, 1879, and the last in regular order November 6 of the same year, is it not.

A. Yes, sir.

Q. Now, tell me how much, if anything, was advanced by

318 Hooper or was he entitled to credit for on account of this $16,000.00 loan subsequent to November 6, 1879.

A. I cannot tell.

Q. Are you able to state in point of fact that Hooper has not advanced or is not entitled to credit for having paid to Balloch or on his account the whole of that $16,000.00?

A. I do not think he has.

Q. Show, if you can, on what you base that supposition.

A. For the money advanced after the 6th of November up to the time of the transfer the amount that should be credited or the amount that Hooper should pay over to Balloch upon subsequent loans was more than he actually did advance.

Q. I care nothing for subsequent loans. I am simply asking you how you are able to testify that Hooper has not in point of fact advanced to Balloch or paid out on his account the whole of this $16,000.00 loan. If you have anything which enables you to state that such is not the fact I wish you to produce it.

A. After the making of the second loan Hooper never advanced money to be credited so much upon the $16,000.00 loan and so much upon subsequent loans, but simply advanced money upon the loans made. To state just how much of the money actually advanced was meant to be advanced upon the first loan no living man can tell.

Q. Whose fault is that?

A. Mr. Hooper's as much as anybody's else.

Q. Was it not your fault also?

319 A. It would be very difficult for anybody to keep the books so as to know just how much money went into each house where men were doing work upon 18 or 20 houses.

Q. Was not the manner of payment, as you state, done to accom--odate Balloch?

A. I presume so.

Q. Do you not know that it was so?

A. I understood that it was that way. His proposition to advance the money, as I have stated, was the result of a proposition made by Balloch and his accepting that proposition.

(The paper identified by the witness as the "memorandum of statement," &c., above referred to is offered in evidence by counsel for the defendants and is marked "Ex. C. L. H. No. 16." A copy is hereto annexed, the original to be produced at the hearing.)

(Adjourned to Thursday, the 10th inst., at 1 o'clock, and the same place.)

320 (Ex. C. L. H. No. 16.)

Wm. R. Hooper, agent Mass. Mu. Life Ins. Co., to Rob't A. Balloch, Cr.

1879.			
June 6.	By com.	$400	
	" " p'd Sturtevant	16	
	" int. on 150, trust on 13th street	7	50
	" bal. int. on 13th street	12	50
	" recording 8 trusts & ctf. from Ward, 19?	19	
7.	" cash, 320	300	
	" " p'd brick Co.	300	
	" " " 4 ins. policies	20	
10.	" " p'd Adams	4,200	
	" "	200	

	13.	By	endorsing order for Kitch for lumber	$700	
	14.	"	cash	220	
	18.	"	Holbrook	189	
	21.	"	cash	127	
	28.	"	"	240	
	30.	"	"	40	
July	3.	"	"	225	
	7.	"	" order given Balloch, ins.	20	
	10.	"	"	130	
	12.	"	"	1,000	
		"	int. on 3 houses on 13th street	337	50
		"	protest on $700	2	
		"	cash payment on 2 houses on Mass. Ave.	800	
321	19.	"	"	300	
	22.	"	orders for Smith (F. H.)	71	30
	26.	"	cash	300	
Aug.	9.	"	"	700	
	16.	"	"	50	
	23.	"	"	30	
Sept.	6.	"	order Wormley	125	
	8.	"	trust on 13th St., 2.67	150	
	8.	"	taxes	104	17
		"	Ward	10	
		"	insurance renewed, 60 days	20	
			Paid	11,378	55
			Adams	2,000	
			Smith	400	
			Sash & inside blinds	500	
			Holbrook	300	
				14,578	55
				11,378	55
Sept.	10.	By	p'd Stephens, of Baltimore	200	
		"	order on Tom Smith	425	
	13.	"	cash	60	
		"	p'd Bond Mitchell's note	27	25
	17.	"	order Caveley	47	64
	20.	"	centre pieces	23	
322	27.	"	p'd Stephens	100	
		"	cash	50	
	7.	"	p'd Stephens, Baltimore	200	
		"	cash given Havenner	50	
		"	" " Terry	12	
	10.	"	"	60	
	15.	"	order Kennedy	57	40
		"	order F. H. Smith	45	
	18.	"	cash	100	
	23.	"	cash	90	

	24.	By p'd Caveley on ac't Mass. Ave. corner house	$100	
Nov.	6.	" p'd Kitch	200	
				13,225 84
July	29.	" order Holbrook	300	
				13,525 84

323 WASHINGTON, D. C., *Jan.* 21, 1884—6 o'clock p. m.

Met, pursuant to agreement, at the office of H. B. Moulton, Esq., 701 7th street N. W., the adjournment to 10th inst. going over until to-day.

Present: H. B. Moulton, Esq., solicitor for the complainant, and J. S. Edwards, Esq., of counsel for the defendants.

Whereupon the cross-examination of SETH A. TERRY resumed.

By Mr. EDWARDS:

Q. You stated at the last session that you did not remember of making but one statement with Hooper concerning his disbursements or the credits he was entitled to on account of the moneys held by him on Balloch's account. Are you clear about that now?

A. I do not recollect of making any other. I would not say I did not make one, but I cannot remember of making any.

Q. You stated also that you did make up one statement from his books and from a memorandum you took from Balloch's. In whose handwriting was the statement prepared which was the result of your conference with him on this subject at that time?

A. The exhibit you filed the other day was in my handwriting.

Q. I understand that, but I further understand you to say that a statement was made up from Hooper's books and from a memorandum that you took from Balloch's. Now, did you not identify this lead-pencil memorandum shown to you at the last session as the paper you then had for that purpose?

324 A. I do not remember that Hooper ever exhibited any books, but that he had some account of the credits that he thought he was entitled to that were checked off with the credits taken from Balloch's book upon the memorandum that was filed at the last session.

Q. Do you not know that Mr. Hooper made up a statement in your presence from his own accounts and from the memorandum which you furnished, which you and he went over and agreed to, concerning moneys paid out by him on Balloch's account prior to the transfer of the property by Balloch to him?

A. I do not recollect any other than the one that has already been filed.

Q. Look at the statement I now hand you, consisting of four sheets of paper, written on certain post-office blanks, and tell me in whose handwriting it is, if you know (handing witness statement).

A. (After examining:) I should say it was Hooper's writing.

Q. Did you ever see that statement before?

A. I do not remember to have seen it.

Q. Do you say that you never did?

A. I will not say that I never did, but I do not remember to have seen it before.

Q. Allow me to call your attention to certain items on this paper and see if I cannot refresh your recollection concerning it. Do you not remember a disbursement made by Hooper on Balloch's account of $12.50 for "a poor woman"?

325 A. I do not.

Q. Have you any recollection concerning the form of the statement prepared by either you or Hooper as the result of your solicitation concerning the disbursements made by him on Balloch's account?

A. I have not.

(The statement included in the four sheets of paper just shown the witness is marked with the signature of the examiner for identification, to be used in the future.)

Q. When Balloch purchased this ground from Adams what examination, if any, did he or you make to ascertain the unpaid taxes then assessed against the property?

A. I think the abstract was made by Ashford. I am not positive that it showed the amount of taxes, but I think it did.

Q. Do you recollect what it was?

A. $3,010.83 includes the special, the old paving tax and water tax. This does not include what was due for general taxes.

Q. How many years' general taxes, if you know, remained unpaid at the time of this purchase by Balloch from Adams?

A. I do not know positively, but I think not more than two years; but I cannot speak positively in regard to that.

Q. Does this item of 3,000 and odd dollars for special taxes include any interest?

A. It does not include any interest.

Q. You say that Hooper was often requested to advance money under the agreement but refused oftentimes, and that he

326 would often only advance upon a commission being paid him for such advance. Tell me the first instance when Hooper charged a commission for advancing money on Balloch's account and what was the amount.

A. I do not remember the date nor the amount of the first charge.

Q. Was it prior to the second loan being obtained?

A. I think so.

Q. How much was it?

A. I think that the first charge made by Hooper was $2.00 for advancing $125.00.

Q. Give the date of this charge.

A. It is in the statement that I have already made here before the examiner June 21, 1879.

Q. State any other charge that you know of of this character.

A. I do now know that I can state any other charge.

Q. Is that $2.00, in point of fact, charged by Hooper against Balloch? If so, show where it appears.

A. It appears in this statement just shown to me, under date of June 18 (referring to the statement included in the four sheets having the signature of the examiner on each and being in Hooper's handwriting).

Q. What enables you to state so clearly that these $2.00 were charged? Have you any independent recollection of it?

A. No; not at this day. I made a memorandum of it at that time. That $2.00 was commission.

Q. What, if anything, do you know concerning the execution and delivery by Balloch to Hooper, during the time he held Bal-
327 loch's money, being the proceeds of these loans to be disbursed on account of the building of these houses, &c., of certain promissory notes which were secured by deeds of trust on this very property?

A. I know that a deed of trust to secure a $1,500.00 note was given to Mr. Hooper to hold as additional security for advances or payments, Mr. Hooper claiming that he wanted more security. No money was advanced upon that $1,500.00 note.

Q. Do you know of Balloch's giving Hooper any other notes than this one on this account?

A. There was a note for $150.00 upon one of the 13th-street houses, which was subsequently paid, and Mr. Hooper, as agent of the company, took credit for that payment.

Q. Do I understand you to say that Balloch only executed and delivered one note to Hooper to secure him or as additional security for moneys paid out on Balloch's account from time to time during the building of these houses?

A. There was more than one note. There was one note of $1,500 and one of $150.00, which I have just explained. I do not remember of any other. If you have any note I can tell you the whole circumstances concerning it.

Q. I want your recollection concerning this matter.

A. My recollection is now that there was a $225.00 note. I have a faint recollection of a note for $225.00, on which I claim Mr. Hooper had advanced money which had not been paid.

Q. Explain more fully how Balloch came to give this $1,500.00 note to Hooper. State as near as you can the date of it and
328 all you know about it.

A. December 30, 1879, is the date of it—the $1,500.00 note. I am not certain whether it is the date of record or the date of the deed. My recollection is that Mr. Hooper asked for more security because three of the deeds of trust were upon houses or lots with the cellars only dug and he (Hooper) said he had advanced an amount of money he felt he did not have security for out of the first loan, and Mr. Balloch executed this trust for $1,500.00 upon three of the houses that were nearly completed.

Q. Can you give us the date of the $225.00 note?

A. November 18.

Q. Now, explain more fully how that came to be given.

A. My recollection is that Mr. Hooper gave Mr. Balloch $225.00 and he gave this note and executed this trust to secure it.

Q. Look at the note I now hand you, dated November 18, 1879, for $225.00, and state whether it is the $225.00 note you speak of.

A. My recollection is it is.

Q. Do you recognize the signature to that note?

A. I do. It is Balloch's signature and the writing on the note is Robert A. Balloch's.

(Said note is marked for identification with the signature of the examiner.)

Q. You say that your recollection is that this $225.00 note has not been paid. In this statement which you have filed
329 marked "Ex. C. L. H. No. 12" what mention, if any, is made of this $225.00?

A. None.

Q. Why not?

A. For the reason it was simply a loan from Mr. Hooper of that much money.

Q. Did you give Hooper credit for it in any way?

A. I did not.

Q. Why not?

A. Because the note was out still against Balloch.

Q. But he is, however, entitled to credit for it, is he not?

A. I believe he is.

Q. You have spoken about a loan made by the insurance company to Balloch on what is known as the 13th and Q street houses. Look at the two letters dated July 30, 1879, and August 7, 1879, marked respectively "Ex. C. L. H. No. 6" and "Ex. C. L. H. No. 7," and tell me who wrote them.

A. The letter of July 30, marked "Ex. C. L. H. No. 6," is all in my handwriting. The handwriting on pages 1 and 2 and all on page 3 except the signature of Robert A. Balloch, of "Ex. C. L. H. No. 7," is in my handwriting. The writing on the 4th page of this exhibit and the signature thereto is in the handwriting of Robert A. Balloch.

Q. Were the delays or refusals, as you stated, on the part of Hooper to advance money on account of these 16th and S street houses from time to time, which, you say, he should have advanced under the agreement to Balloch, made prior to Balloch's obtaining the second loan from the company?

A. I think not so much as after the making of the second loan.

330 Q. I wish you to state as near as you can when these refusals on the part of Hooper took place.

A. It was Saturday night after Saturday night.

Q. State the time as near as you can.

A. From the latter part of June, 1879, up to January 22, 1880.

Q. Were not the details arranged in respect of the 3rd loan prior to your going to the District jail and before the transfer from Balloch to Hooper of the property?

A. I am not positive as to that. My recollection is, though, that it was, but I cannot speak positively.

Q. You say that you were familiar with Balloch's business affairs at the time he obtained these loans from the insurance company. What other enterprise, if any, was he engaged in at the time he bought this ground from Adams?

A. I do not know as he was engaged in any.

Q. What means had he, if any, at that time?

A. I do not know what his means were.

Q. Do you not know that he had no means?

A. No; I do not.

Q. Do you know anything about it?

A. I know he had parties who were helping him. I know one of the parties.

Q. In what way?

A. With means.

Q. For what purpose?

A. Well, I do not know any other than to put in these buildings.

Q. Do you know whether any one, in point of fact, advanced him money to put in these buildings?

331 A. I do.

Q. Who?

A. I shall decline unless ordered by the court to do so.

Q. Why do you decline to answer this question?

A. Because I do not wish to mention any other party's matters.

Q. How much?

A. I do not know to what extent.

Q. On what security, if any?

A. I do not know what arrangements he had with them at all.

Q. Do you know that the moneys were in fact advanced to Balloch?

A. I know that he received some from them. What amount I do not know. I did not keep any account. I was with him sometimes when he got it, but I only kept memorandums of money he let me have.

Q. In what form did you keep the memorandums of the money he let you have?

A. Just the date and the amount.

Q. Where are those memoranda now?

A. At my house.

Q. What did you do with the money you received from him?

A. Used it in paying the men and in buying material for the 16th-street houses; most of it. Part of it I used myself.

Q. How much did you expend of it for the purposes you have mentioned—the 16th-street houses?

A. I think in the neighborhood of $8,000.00. I am not positive to the amount.

Q. Why are you not positive?

A. Because I have not looked at the memorandum for months.

332 Q. What interest has any one, to your knowledge, in this litigation other than Robert A. Balloch?

A. None that I know except Mr. Hooper.

Q. Have you not kept an account of all the moneys actually paid out on account of the houses the subject-matter of this controversy?

A. Oh, yes.

Q. In what form?

A. I kept a book of all the receipts and all the expenditures right along right down to the time I went to the District jail, and then afterwards Mr. Balloch obtained from Mr. Hooper a statement of moneys he had paid out from that time up to the time of the transfer.

Q. Where is this latter statement?

A. Right here (handing Mr. Edwards paper). "Pomeroy note, $379.35; W. Mayes, $400.00; Haywood & Hutch., $200.00"—that is in Mr. Hooper's handwriting. "Statement of disbursements from William R. Hooper from January 15, 1880, to February 25, 1880," is in Mr. Balloch's handwriting. The date of this paper is "Received June 7, 1882."

Q. Are these items included in this statement that you have filed marked "Ex. C. L. H. No. 12"?

A. They are not.

Q. Why not?

A. For the reason I did not know anything about the payment to Hayward & Hutchinson until long afterwards, and I did not know the amount until long after it was made. It did not
333 get on my book until the other payments. Balloch never got the notes. The notes were never returned to him, and I did not make any credit of it at all.

By Mr. MOULTON:

Q. Still outstanding?

A. Still outstanding. They were on the top of the trusts Mr. Hooper had for the company.

By Mr. EDWARDS:

Q. What effort, if any, did you make, or did Balloch to your knowledge, to ascertain whether these three items which you have now read were correct or not?

A. I do not know what Mr. Balloch made; I never made any.

Q. Do you say, in point of fact, that Mr. Hooper is not entitled to credit for these items?

A. I do for all of them; I say he is not entitled to credit for all of them in my estimation.

Q. What do you know about it?

A. Well, I do not know anything except what the memorandum on its face says. I made no inquiry. I know something further. I know that the $379.35 was money paid upon a note that was only for $300.00. It was a good deal less than that, I know.

Q. Has the Pomeroy note to your knowledge ever been presented to Balloch for payment?

A. Not to my knowledge.

Q. What is the date of that note?

334 A. October 29, 1879, is the date of record, but the date of the note for $300.00 I do not know.

Q. What means had Mr. Balloch at the time of the purchase of this property from Adams and during the construction of the houses to provide for his personal wants and support?

A. I do not know.

Q. Was he engaged in any business to your knowledge that yielded him an income?

A. Not to my knowledge.

Q. Do you not know that a considerable portion of the money obtained from Hooper on account of loans made by this insurance company we are speaking of was expended by you and Balloch other than for the construction of these houses?

A. No, sir.

Q. Do you say that there was not any?

A. I say there was very little; the amount I had used I stated the other day, and Mr. Balloch used very little, if any.

Q. How do you know how much Balloch used?

A. Because nearly every cent of the money was paid to me by Mr. Hooper up to the time I went to the District jail.

Q. You left the District jail on the 31st of July, 1880. Did you go to examine these houses after leaving the jail?

A. I did not.

Q. When did you first see them after you left the jail?

A. I guess it was a year afterwards.

Q. During the time that Hooper was disbursing this money what communication, if any, had you with the defendant
335 insurance company concerning the money and its application by Hooper?

A. I have no knowledge of having had any direct communication with the company.

Q. Was any complaint made by you or by Balloch, to your knowledge, to the defendant insurance company concerning the manner Hooper disbursed this money for Balloch?

A. I have no personal knowledge.

Q. Why did you not communicate with the insurance company on the subject?

A. The answer I should give to that question, and the only one that I think is a proper one, is that when this third loan was made by the company, covering all the buildings on 16th and S streets, I thought Mr. Hooper would, as agent of the company, pay over money more promptly than he had theretofore.

Q. You have testified that you have examined the land records for the purpose of ascertaining what sales have been made of this property and the consideration mentioned in the deeds. You know, do you not, that the tax records of this District are accessible, and that you could ascertain the taxes paid as well as what property had been sold, did you not?

A. I did; but Mr. Hooper has already furnished a statement of the amount of taxes, so there was no necessity to go to the records.

Q. You would be able to ascertain, would you not, and to state

accurately the amount of taxes standing against this property when Balloch borrowed this money from the defendant insurance company if you had made the necessary examination? Why did you not do it?

336 A. I did not do it for the reason that the statement furnished by Mr. Hooper to Mr. Balloch, now filed as an exhibit, was so near the amount that I had figured upon that I never verified my figures by going to the tax office.

Q. What is the amount of taxes given by Hooper in this statement you speak of?

A. $4,500.00.

Q. Do you not know in point of fact that Hooper has paid taxes on this property up to this time aggregating between $5,000.00 and $6,000.00?

A. I have no knowledge of such payment.

Q. What data, if any, had you whereby you were able to state how much money has actually been paid to Adams on account of the unpaid purchase-money due by Balloch for this property?

A. Only by hearsay. I made inquiry of Brad. Adams, who was one of the executors of the estate of J. G. Adams, and he told me it was all paid, as I understood him.

Q. Did he tell you how much?

A. All. I knew what had been paid.

Q. Did he tell you how much?

A. No; I do not think he did.

Q. Did you inquire?

A. I did not.

Q. Why not?

A. For the reason I knew just what balance was due. If he paid it all it was easy to tell how much he paid.

Q. Do you know when it was paid?

A. I do not.

337 Q. It ran on interest, did it not?

A. I have no doubt it did up to the time it was paid.

Q. Then how are you able to state what was paid?

A. I know the amount of principal, and in that statement I have only furnished the amount of principal with interest up to the time of transfer.

Q. Why so?

A. If Hooper would let it run on 10 years, having the money in his hands, he would have no right to charge interest upon that money unless he allowed interest upon the money he held.

Q. Is that your reason?

A. That is my reason.

Q. What money had Hooper to your personal knowledge in hand belonging to Balloch at the time of the transfer by Balloch to Hooper of this property?

A. I have no knowledge of what he had.

Q. Then I understand in this statement you give Hooper credit simply for the principal debt due to Adams, with interest to the date of transfer. Is that right?

A. That is what the statement shows; yes, sir.

Q. Then if Hooper had no money at that time in his hands to the credit of Balloch applicable to the payment of the Adams debt, this statement is wrong, is it not?

A. Not necessarily.

Q. Explain it if you can.

A. Why, he might have had less money in his hands than he should have had.

338 Q. I am putting you a hypothetical question. I again repeat, if Hooper at the time of this transfer had no moneys in his possession belonging to Balloch, is this statement in respect of this credit correct?

A. Mr. Hooper might have had less money in his hands actually, as the agent of the company, belonging to Mr. Balloch than he should have had. I think the statement is correct.

Q. Do you know of your own knowledge what work was done on these houses while you were in the District jail?

A. I do not.

(Cross-examination here closed, reserving the right to have the question which the witness refuses to answer certified to the court for its determination.)

Redirect examination.

By Mr. MOULTON:

Q. You knew the total amount of these three loans, and by taking the statement of Mr. Hooper of money furnished Mr. Balloch after you quit work and adding it with the amount you had in your account would show the total amount that Mr. Hooper had paid Mr. Balloch. Could you not by taking this sum from the total loans determine the exact amount that Mr. Hooper had or ought to have in his hands at that time belonging to Mr. Balloch?

339 A. I think so.

Q. Did you or did you not make such a calculation at the time of making this statement that has just been referred to by counsel?

A. No, sir.

Q. In view of your answer to my last question what did you mean in your statement in answer to the question of Mr. Edwards when you said you had no knowledge of what funds Mr. Hooper had in his hands at the date of transfer?

A. I mean that I had no personal knowledge as to how many dollars and cents Mr. Hooper had and nothing in regard to what he should have growing out of the statements between the two parties.

Q. Then I understand you to mean that you do not know the exact amount of money that he had in bank or that he had in his possession, and that is all?

A. That is it; that is all.

Q. State whether or not you and Mr. Balloch did not frequently complain to the agent of the defendant insurance company, Hooper, because of your inability to get the money due and which you needed to carry on the work.

A. I did.

Q. Why, Mr. Terry, did you say that the note of Mr. Balloch to Mr. Hooper of $225.00 was omitted from your statement which has been filed?

A. That was a loan that was made by Mr. Hooper, and I had no knowledge as to who held the note, whether he held it or whether he had disposed of it.

340 Q. Was not that a private transaction between Mr. Hooper and Mr. Balloch, in no way affecting the company?

(Objected to as leading.)

A. I so considered it.

Q. As I understood you, Mr. Terry, no money passed between Mr. Hooper and Mr. Balloch on account of the $1,500.00-note referred to in your answers to Mr. Edwards' questions.

A. None whatever.

Q. State whether or not Mr. Balloch in the course and progress of this work frequently gave orders to subcontractors or employees upon Mr. Hooper for money, which he accepted, and many of which he paid.

A. He did.

Q. State whether or not the fact of Mr. Hooper's claiming commission before paying these orders was not the subject of complaint among the persons to whom they were given.

(Objected to as leading.)

A. They were.

Q. Did you hear that matter discussed more than once?

A. Several times.

Q. Mr. Terry, in the statement that has been filed in this case showing Mr. Balloch's account with Mr. Hooper and the insurance company, the defendants are given credit for having paid about $4,200.00 in taxes, whereas Mr. Hooper seems to have claimed a credit of $4,500. Will you explain the difference between these two statements?

(Objected to because the question contemplates that the
341 total amount of taxes paid by Hooper is only $4,500.00, which the testimony does not disclose.

A. Pettit & Dripps assumed $300.00 in taxes upon their house, which, Mr. Pettit informed me, he had paid.

(That part of the answer giving the statement of Mr. Pettit is objected to.)

Q. Mr. Terry, will you state what makes the difference in the total amounts between the account filed by Mr. Balloch in this case and the statement produced at the last session by Mr. Edwards, which

you said was in your handwriting and which purported to be a statement of the same transaction?

A. The statement put in at the last examination, marked "Ex. C. L. H. No. 16," compares, I believe, strictly with the book of original entries so far as it goes, and the only difference between this and the statement marked "Ex. C. L. H. No. 12" consists in its having a credit June 6 of $400.00 commission to William R. Hooper; June 21, commission, $2.00, payment on the house corner of Massachusetts avenue and Second street N. W. of $479.00; July 12, protest, $2.00, which do not appear in the statement marked "Ex. C. L. H. No. 12."

Q. Mr. Terry, at a previous session you were asked by Mr. Edwards to state whether or not you knew that the whole $16,000 had not been paid to Mr. Balloch by Mr. Hooper. Please state whether or not Mr. Hooper on account of the whole three loans advanced Mr. Balloch $16,000.00.

A. No, sir.

342 Q. Never did?

A. Not to my knowledge.

Q. In answer to a question of Mr. Edwards you stated that you had received from Mr. Hooper $500.00. Please state whether or not that is included in the account filed by Mr. Balloch and credit for that amount given to the defendants in this case.

A. It is.

Q. Will you please state how the error in the matter of the plat given by you to Mr. Hooper occurred.

A. The plat was not furnished Mr. Hooper, my recollection is, until two or three months after the loans had been made, and there was an erroneous plat made by me for Hooper. It was discovered by me to be an error, and I reported the same to Mr. Balloch, and he said at once that Mr. Hooper had better be seen in regard to the thing, and I told him that, as he would probably make loans on all the property, perhaps he had better let it go as it was.

Recross-examination.

By Mr. EDWARDS:

Q. Will you undertake to say under oath, of your own knowledge, that Mr. Hooper has not paid to Balloch or on his account or expended in improving the buildings on this property or for the purchase of the ground from Adams the full amount of money

343 he received from Balloch on account of the three loans described in these proceedings made by the insurance company?

A. I do not.

SETH A. TERRY.

Sworn to and subscribed before me—

CHAS. L. HINE,
Examiner in Chancery.

(Adjourned to Thursday, the 24th inst., at 6½ o'clock p. m., the same place.)

WASHINGTON, D. C., *January* 24, 1884—6½ o'clock p. m.

Met pursuant to adjournment.

Present: H. B. Moulton, Esq., solicitor for the complainant, and J. S. Edwards, Esq., of counsel on behalf of the defendants; also Seth A. Terry, Esq.

Whereupon JOSEPH H. PUMPHREY, a witness on behalf of the complainant, being duly sworn to tell the truth, the whole truth, and nothing but the truth, doth depose and say as follows:

By Mr. MOULTON:

Q. Where do you live, Mr. Pumphrey?

A. 501 South Capitol street S. W., Washington, D. C.

Q. How long have you lived in Washington, Mr. Pumphrey?

A. I think I came here in 1847.

Q. Have you lived here ever since?

A. Except one short interval when I was in Florida.

Q. What is your business?

344 A. Carpenter, builder, and contractor for the last 35 years.

Q. Do you know Robert A. Balloch?

A. Yes, sir.

Q. Do you know anything of the improvement that he was making out on 16th street; and, if so, what knowledge have you?

A. I was contractor for 10 houses there; I built six of them.

Q. Where were they located?

A. On S street between 16th and 17th streets, I think; north side of S street.

Q. Did you do any work on the houses on 16th street?

A. I did some work there; I hung a lot of blinds and fixed sheathing, &c. This I did for Mr. Balloch, I think, but I do not remember.

Q. Do you remember when Mr. Balloch conveyed these houses to Mr. Hooper? Do you know of the fact?

A. I know that I was informed that they had been conveyed and that caused me to take a lien.

Q. You remember the circumstance of Mr. Balloch's conveying them to Mr. Hooper?

A. Yes, sir; I understood that Mr. Hooper had received a conveyance from Mr. Balloch of these 6 houses and other property there, and I got information to take care of myself.

Q. Do you remember the condition of the improvements about the time of the transfer of the houses to Mr. Hooper?

A. Yes, sir.

Q. Will you state the condition of the 6 houses on S street at that time?

A. Those houses had been prepared for plastering, had been roofed on, the whole 6, and 2, if my memory serves me right, had been second-coated. I got orders from somebody to close up the

345 windows; I do not remember who I received that order from.

Q. From your knowledge and experience as a builder and your

knowledge of the condition of the houses at the time of the transfer, can you state approximately what would have been the cost of completing those houses?

(Objected to as immaterial and incompetent.)

A. Yes, sir.

Q. Now, will you be kind enough to state as near as you can the necessary expense to have completed the 4 houses that had been rough-coated per house?

(Same objection as before.)

A. The two houses that we term the eastern houses I estimated on, I remember, at, I think, $290.00 or $295.00 apiece, including the carpenters' work and the lumber to put up fences, wood sheds in the rear, and the porches in front. I think that is what I estimated it at the time.

Q. State whether or not that contemplated the entire completion of those houses except as to stoves.

A. Yes, sir.

Q. What would have been about the necessary cost to have completed the other four houses?

A. There should have been about $60.00 a house additional cost. They are all the same model.

Q. Making those cost about $350.00 to complete them?

A. It would be about $350.00 or $355.00 to complete them—the other four; the west four.

Q. Mr. Pumphrey, were you ever in the 16th-street houses?

A. Yes, sir; I was through at different times; I was through a good many of them. I hung the outside blinds in the rear, I think, to a good many of them.

346 & 347

Q. Mr. Pumphrey, just glance at this paper here (referring to "Ex. C. L. H. No. 1" and indicating) and state the condition of the houses north of the south three here (indicating). State the condition of those houses at the time of the transfer by Mr. Balloch to Mr. Hooper, commencing with 97 and extending north to 90.

A. I was through several of those houses—8, 9, or 10—and the plastering and the trimmings were finished. I think Mr. Gessford had the trimmings. I do not remember whether the mantels were set or not; they were there in the building, and the doors.

Q. Was there anything to be done to those houses except the painting?

(Objected to as leading.)

A. I cannot remember exactly whether the inside shutters were in or not. It appears to me they were nearly completed. I think I estimated on finishing one or two after the three south houses; I think I estimated on house on lot 96 for Mr. Hooper.

Q. Do you remember whether or not the houses to the north of this row were substantially finished, and as you came south they were possible in a less finished state?

(Same objection as before.)

A. Yes; these houses down here (pointing to lots 87, 88, 89, 90, &c.) were finished, as far as my memory serves me, and I think without any exception, to the best of my recollection.

Q. And the houses on lots 90, 91, 92, &c., going south, down to 97, were nearly completed?

(Same objection as above.)

348 A. Yes, sir; these two (pointing to lots 96 and 97) were the farthest from being finished, because Mr. Hooper asked me to look at them, and I was asked to estimate on them.

Q. Did you estimate on them?

A. It appears to me I did.

Q. Do you remember?

A. I do not know as I could. I estimated against him (pointing to Mr. Gessford, now present); his figures were more than mine. He wanted it done in a certain time and I would not bother with it.

Q. Then, Mr. Pumphrey, as I understand you, the houses on lots 96 and 97 were not as far advanced as any of the other houses north of them?

A. No; they were not, but more advanced than the three houses to the south of them.

Cross-examination:

By Mr. EDWARDS:

Q. You say that you estimated against Mr. Gessford for the completion of two of these houses at Mr. Hooper's request. You mean Mr. William R. Hooper, the gentleman now present?

A. It might have been through his representative, Mr. Covington, but, anyhow, I was requested, and I think I returned the estimate to Mr. Hooper or a gentleman in the department there who at the time was doing some business for him. Mr. Covington was the man who did business with me for Mr. Hooper.

Q. When the agreement was made Mr. Hooper sanctioned it and signed a contract for the work that you had taken previously to the transfer. Is that it?

349 A. No, sir; after the transfer; nothing was done by Mr. Hooper with me until after the transfer.

Q. Do I understand you to say that you recognize the Mr. Hooper that you speak of in this connection as the gentleman now present?

A. Yes, sir; I think that is the gentleman.

Q. You say that you did have a contract or agreement with him concerning work to be done on some of these houses. How long was it after you heard of the transfer by Balloch to Hooper that you were first requested to estimate for any work to be done on these houses?

A. Well, sir; I think it was within a week—10 days or two weeks, probably might have been as much as 20 days—but it was after the time he received the transfer, and I secured myself upon the property for the labor I had performed under my previous con-

tract. I got acquainted with Mr. Hooper through my acquaintance with this lien-law matter, and in paying the money he paid me one portion of it then. Mr. Hooper proposed to give me so much money when the agreement was carried out, and then asked me to look at the houses and say what I would do the carpenters' work in and about two of those houses for. It was Mr. Hooper or his representative, I forget exactly which, but I think it was Mr. Hooper and Mr. Covington both. Then Mr. Hooper agreed to pay me one portion of the settled claim, which he did, and gave me some agreement that he would pay the other when I finished the two houses—held this as collateral—and would pay the remainder of the money settled upon after the houses were completed according to my agreement. We had a written agreement between us, of which I had a duplicate, and I think I have got it yet. This was after I had judgment against him, I suppose, in one sense of the word, for what Mr. Balloch owed me when he transferred the property. This happened after the transfer of the houses to Hooper.

350

Q. Mr. Pumphrey, as I understand you, at the time you heard of Balloch's transfer to Hooper, Balloch was indebted to you on these houses for work done?

A. Yes, sir.

Q. How much?

A. Well, if the contract had been carried out to the letter it would have been one thing, but from want of money to pay me and dilly-dallying it made it amount to a great deal more.

Q. What was the amount you claimed due by Balloch to you in your lien which you speak about? Do you recollect?

A. I do not. I cannot recollect that, sir, and I do not think I have a memorandum of it.

Q. How long after you heard of this transfer by Balloch to Hooper was it that you filed your lien?

A. I think I heard of it in the morning about 9 o'clock, and I went to a lawyer and had the papers made out and put on immediately.

Q. That day?

A. I think I did—that or the day following.

Q. You said something about being told to look out for yourself. Who told you that?

A. Some workmen, sir, if I remember, told me that a storm was brewing, meaning, in our language, to take care of myself.

Q. And after that you had an agreement with Mr. Hooper to complete the houses—some of them?

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A. Two of them; yes, sir.

Q. And I understand you further to say that Hooper paid you one-half of the bill that was due by Balloch at the time you heard of the transfer?

A. Yes, sir.

Q. And that he retained back the other half as security for you to carry out your subsequent agreement with him about the houses?

A. Well, he used this language: He says, "I will pay you the other half when you complete the contract," and asked me, I think,

if that would do. I do not know whether he forced me to it or not, but I think he merely asked me if that would do.

Q. And you consented to it?

A. I consented to it.

Q. You said, I understood you also, that Mr. Hooper was anxious that you should comply with your contract. Did he manifest any anxiety as to the time within which the work should be done?

A. It appears to me that the houses were to be ready for something and that they wished to have some as early as possible; but I do not know whether any time was limited or not, but it serves me pretty well that it was limited, but to what extent I cannot say. I know Mr. Covington was very persevering in having the work executed.

Q. Do you recollect how long you worked on those houses after you heard of the transfer to Hooper?

A. I worked none after I heard of the transfer until I
352 made an agreement with Mr. Hooper, when, I think, I worked 45, 50, or 60 days; long there. I am not certain.

Q. Were other workmen employed at the same time?

A. I had other workmen there, and there were other workmen there, plasterers.

Q. Was not other work done on the other buildings at that time?

A. Not at that time on the other four buildings.

Q. On which street were these two houses that you had the agreement with Hooper to finish?

A. They were the east two houses, on S street from 16th.

Q. Did you finish them?

A. I finished them, sir, as far as the carpenter's work was concerned to Mr. Covington's satisfaction, and I went down with him, I think, to Mr. Hooper, and I was paid by Mr. Hooper either directly or indirectly.

Q. But you have been paid, however, what Mr. Hooper agreed to pay you?

A. Yes, sir.

Q. And also what Balloch owed you at the time that you heard of the transfer?

A. At the time I took the lien; yes, sir. The amount I was paid by Mr. Hooper was $200.00.

Q. Do you mean that $200.00 was the whole amount that was due by Balloch to you, as well as the additional work done by you for Hooper after the transfer?

A. No, sir; I mean the deficiency due by Mr. Balloch at the time that Mr. Hooper received the property, as I was informed.
353 This $200.00 was directly to cover that, which was modified from its original amount down to this by Mr. Hooper.

Q. Then I understand that the claim that you held against Balloch at the time of the transfer was greater than you finally settled with Hooper for. Am I correct?

A. I think my claim was greater.

Q. And under the settlement with Hooper you received less than what you claimed to be due from Balloch to you?

A. Yes, sir.

Q. Now, how much did Hooper pay you under your agreement with him for these two houses, do you recollect?

A. I cannot state now. I cannot come any nearer than to state $125.00 for the two houses.

Q. During the time that you were at work on these two houses, after the transfer, under your agreement with Hooper, did you observe either Mr. Balloch or Mr. Terry about the premises at all?

A. I am sure I did not see either of them about the premises from the time the transfer was made up to this day.

Q. Have you ever seen or have you ever been inside of any of these 16th and S street houses since you completed your contract with Hooper, which you have mentioned?

A. Yes, sir; I was in the house on the corner of 16th and S streets and the adjoining one.

Q. When?

A. Two or three times during the last summer while the workmen were finishing up there.

354 Q. Are those the only ones you were in?

A. Those were the only ones I was in.

Q. What was going on in those houses when you were there?

A. Carpenters' work was being done to complete them.

Q. How came you to go there?

A. I was looking out for work at that time and went there to get work and did work there. I worked there awhile on the stable with Mr. Clark.

Q. How long did you work on the stable?

A. Only three or four days.

Q. You say that you received about $125.00 for completing the carpenters' work on two of those S-street houses under an agreement with Mr. Hooper. Did you furnish any material or was this simply for your own labor?

A. For the mechanics' work, sir.

Q. Simply the mechanics' labor?

A. Yes, sir; that included work to build the fencing, wood-sheds, and the front steps.

JOS. H. PUMPHREY.

Sworn to and subscribed before me—

CHAS. L. HINE,
Examiner in Chancery.

355 CHARLES GESSFORD, a witness on behalf of the complainant, being duly sworn to tell the truth, the whole truth, and nothing but the truth, doth depose and say as follows:

By Mr. MOULTON:

Q. Where do you reside, Mr. Gessford?

A. I live at 436 13½ street S. W., in this city.

Q. How long have you lived in Washington, sir?

A. Since 1851.

Q. What is your business?

A. Carpenter.

Q. Do you know Robert A. Balloch?

A. I know him when I see him.

Q. Do you know of any improvement he was making on 16th and S streets a few years ago?

A. I do not know as I do; the most of my business was done with Mr. Terry.

Q. Did you do any work on the houses that were being erected at the intersection of S and 16th streets N. W.?

A. I worked on all the houses on 16th street between S and T. I had a contract for it.

Q. Do you remember about the time of the transfer of this property to Mr. Hooper?

A. I do not.

Q. I am not asking for the date, sir. I am asking whether or not you remember the fact.

356 A. I do; I heard about it.

Q. Were you working on any of those houses at the time, Mr. Gessford?

A. I was.

Q. Do you remember about the condition or the state of the improvement at the time of the transfer?

A. Well, pretty much; yes.

Q. Will you look on this plat, marked "Ex. C. L. H. No. 1," and state to the examiner the condition of the houses or improvements, commencing with lot 96 and running north, at the time of the transfer?

A. The carpenters' work from 93 to 87 was nearly finished when this thing happened, and from 96 to 94, inclusive, was not so nearly finished.

Q. Will you state, as nearly as you can, about the approximate cost of completeing those houses at that time?

(Objected to as leading.)

A. As near as I can judge—we will have to take the seven houses first. I think about $250.00 apiece.

Q. These are the north seven. The houses on lots 94, 95, 96 would cost about how much?

A. I suppose $300.00 to $400.00.

Q. Do you remember the condition of the houses on S street?

A. I had nothing at all to do with them.

357 Cross-examination.

By Mr. EDWARDS:

Q. Have you been in these houses since they have been completed or since you worked on them rather?

A. No, sir.

Q. Have you worked on them since you heard of the transfer to Hooper?

A. Yes, sir; I worked on one of them.

Q. In whose employ were you?

A. Mr. Covington was the superintendent and Mr. Bingham made the contract.

Q. How long after you heard of the transfer were you working under Covington?

A. I cannot tell exactly; I suppose 8 or 10 days or two weeks.

Q. How long did you work?

A. I had to get it done in a certain time; I suppose in 15 or 20 days was the time I had to finish my house, and I finished in time.

Q. And you have been paid, have you?

A. I have been paid; yes, in one way; 50 cents on the dollar—that is, for the Balloch and Terry job. I was paid in full on the extra contract to finish one house.

Q. Then I understand you that the work you did after the transfer under Covington you were paid for in full?

A. Yes, sir.

Q. And I also understand from your testimony that Bal-
358 loch was indebted to you at the time of the transfer—Balloch or Terry?

A. I never looked to Mr. Balloch for any of my money there.

Q. Who did you look to?

A. I looked to Mr. Terry; in fact he was my man all the time. He said Mr. Balloch had something to do with it, but I did not recognize him much.

Q. When you speak of finishing the house you mean, do you not, the carpenter work on it?

A. In this case I do.

Q. What house was it that you worked on—can you tell?

A. I am not exactly positive, but I judge the house on lot 96; I am not positive.

Q. Who paid you what was due you by Terry for work done on these houses?

A. Well, I think Mr. Bingham did, to the best of my knowledge.

Q. Where did Bingham live or have his office?

A. I do not know, sir. I can tell you where I found him. I found him at the northeast basement corner of the general post-office building. I went to see Mr. Hooper and he referred me to Mr. Bingham.

Q. You speak of Mr. Hooper. Do you identify the gentleman now present as he?

A. I think he is the gentleman.

Q. I understand you also to say that under your agreement made after the transfer you were limited as to time by the terms of your contract. Am I correct?

A. Yes, sir; and I could get no money until the contract was done.

359 Q. That was under the arrangement, was it not?

A. Yes, sir.

Q. You carried out your part and Covington and the party who employed him carried out theirs?

A. I carried out mine to the best of my ability and they carried out theirs, I suppose.

Q. How came you to deal or recognize Terry as the man having charge of this job?

A. When I first commenced there I made inquiries, and the reason I held on to Mr. Terry was because I could place more confidence in him, I thought, than in Mr. Balloch.

Q. How much was due by Balloch for work done on these houses at the time you heard of the transfer?

A. There was due to me for work and material somewhere near $300.00, if I am not mistaken.

Q. Since the time you completed your agreement to finish this house on lot 96 have you been in any of them or examined them?

A. I do not think I have been in any of them. I might have been in one—that is, Mr. Eastwood's house—after I finished this one, but not in any other.

Redirect examination.

By Mr. MOULTON:

Q. You state that Mr. Hooper or Mr. Covington employed
360 you to complete the carpenters' work in one of those houses. State, if you remember, the amount that you were paid for doing the carpenters' work in that house.

A. $38.00, I think; I am not positive. That was for labor. I furnished no material.

CHARLES GESSFORD.

Sworn to and subscribed before me—

CHAS. L. HINE,
Examiner in Chancery.

(Adjourned to Monday, the 28th inst., at 6.30 o'clock, and the same place.)

361 WASHINGTON, D. C., *January* 31, 1884—6½ o'clock p. m.

Met pursuant to agreement, the adjournment to the 28th inst. going over until to-day.

Present: H. B. Moulton, Esq., solicitor for the complainant, and J. S. Edwards, Esq., of counsel on behalf of the defendants.

Whereupon NATHAN BICKFORD, a witness on behalf of the complainant, being duly sworn to tell the truth, the whole truth, and nothing but the truth, doth depose and say as follows:

By Mr. MOULTON:

Q. You live in Washington, Mr. Bickford?

A. Yes, sir.

Q. How long have you resided here?

A. I have been here most of the time since the fall of 1876.

Q. Are you acquainted with Mr. Balloch, the plaintiff in this case?

A. Yes, sir.

Q. Do you know the defendant Hooper?

A. I only know Mr. Hooper by sight.

Q. Do you know the property involved in this suit, at 16th and S streets N. W.?

A. I have observed it in passing along the street.

Q. Mr. Bickford, will you state what, if anything, you know in relation to the sale or rental of this property?

(Objected to as immaterial and irrelevant.)

362 A. Well, I have heard a great deal, of course, in regard to it, but the only point of interest, I presume, consists in a call which I made early in the summer of 1882 on F. H. Smith & Son to inquire the price of one of the houses on S street, and was informed by the gentleman in the office there that the houses on S street had all been sold, but there were still some more for sale in the 16th-street row.

Q. Were F. H. Smith & Son selling this property?

A. I do not know anything about that. Their cards were on the property?

Q. Cards for what?

A. As I recollect, for sale or rent. I do not recollect which.

Q. Did you or did you not have a purchaser at that time for one of those houses?

A. I had a purchaser in view.

Q. How many times have you been up to these houses?

A. Oh, I have passed them perhaps 20 or 30 times. I lived for some time on New Hampshire avenue, just above these houses.

Q. What do you know about their being rented or being vacant or otherwise?

A. I know nothing in regard to it except what I have observed in passing.

Q. State the result of your observation, please.

A. I noticed that the S-street houses were occupied very soon after they were completed, and I have, I believe, always noticed in passing some of the 16th-street houses with the card "for rent" on them, but I have taken no special notice of them in that respect.

363 (The testimony of this witness objected to as immaterial and incompetent.)

Cross-examination waived.

NATHAN BICKFORD.

Sworn to and subscribed before me—

CHAS. L. HINE,
Examiner in Chancery.

364 A. B. C. CLEMENT, a witness on behalf of the complainant, being duly sworn to tell the truth, the whole truth, and nothing but the truth, doth depose and say as follows:

By Mr. MOULTON:

Q. Mr. Clement, where do you reside?
A. 715 H street N. W., Washington, D. C.
Q. How long have you resided in Washington, sir?
A. Since November 7, 1883.
Q. Have you ever seen the houses or any of them located on 16th and S streets—the Balloch houses?
A. Yes, sir; I believe I have; 3-story houses, are they not?
Q. Yes, sir.
A. Yes, sir.
Q. Have you ever examined any of them for the purpose of renting?
A. I examined two.
Q. How long ago was that, sir?
A. Towards the end of November, it seems to me; about the 25th; I cannot tell exactly the day; between the 20th and 25th.
Q. Will you state in detail the condition of the houses you examined?

(Objected to as immaterial and irrelevant.)

A. I went into 1808 and looked through every room, and wherever I went I saw dirt, and pieces were knocked off the corners of the mantels; the walls were in bad order; the floors
365 of different rooms seemed to be in bad order; I do not remember which rooms, but the house presented a very untenantable aspect altogether. Then I got the key and went into the other houses, which did not look much better; it looked a little better; it had not been used so roughly.
Q. Did you consider those houses tenantable in their then condition?

(Objected to because leading and irrelevant.)

A. No, sir; I should not have rented one of them in the condition in which they were.

(Cross-examination waived.)

A. B. C. CLEMENT.

Sworn to and subscribed before me—

CHAS. L. HINE,
Examiner in Chancery.

(Adjourned subject to notice.)

(February 20, 1884—Complainant's counsel announces his case closed.)

366 Ex. C. L. H. No. 16.

Wm. R. Hooper, agent Mass. Mu. Life Ins. Co., to Robert A. Balloch, Cr.

1879.				
June	6.	By com.	$400	
		" " p'd Studevant	16	
		" insurance on 150 trust on 13th St.	7	50
		" balance int. on 13th St.	12	50
		" insurance renewed on 13th St.	12	50
		" recording 8 trusts and c't'f from Ward, 19	19	
	7.	" cash, 300	300	
		" cash p'd brick Co.	300	
		" " " 4 ins. policies	20	
	10.	" " p't Adams	4,200	
		" "	200	
	13.	" endorsing order for Kitch for lumber	700	
	14.	" cash	220	
	18.	" Hoolbrock	189	
	21.	" cash	127	
	28.	" "	240	
	20.	" "	40	
July	3.	" "	225	
	7.	" " order given Balloch, ins.	20	
	10.	" "	130	
	12.	" "	1,000	
		" ins. on 3 houses on 13th St.	337	50
		" protest on $700	2	
		" cash payment on 2 houses on Mass. Ave.	800	
	19.	" "	300	
	22.	" order for Smith (F. H.)	71	38
	26.	" cash	300	
Aug.	9.	" "	700	
	16.	" "	50	
	23.	" "	30	
Sept.	6.	" order, Wormley	125	
	8.	" trust on 13th St., 2.67	150	
	8.	" taxes	104	17
		" Ward	10	
		" insurance renewed, 60 days	20	
		Paid	11,378	55
		Adams	2,000	
		Smith	400	
		Sash & inside blinds	500	
		Holbrook	300	
			14,578	55

366½ Ex. C. L. H. No. 16. Equity. No. 381. Chas. L. Hines, examiner.

			$11,378	55
Sept.	10.	By p'd Stephens, of Baltimore	200	
		order on Tom. Smith	425	
	13.	" cash	60	
		p'd bond, Mitchell's note	27	25
	17.	order Caverly	47	64
	20.	center pieces	23	
	27.	p'd Stephens	100	
		cash	50	
Oct.	7.	p'd Stephens, of Baltimore	200	
		cash given Havenner	50	
		" " Terry	12	
	10.	"	60	
	15.	order Kennedy	57	40
		" F. H. Smith	45	
	18.	cash	100	
	23.	cash	90	
	24.	paid Caverly on ac. Mass. Ave. corner house	100	
Nov.	6.	paid Kitch	200	
			$13,225	84
July	29.	order Holbrook	300	
			$13,525	84

(Here follows diagram marked p. 367.)

368 (Ex. C. L. H. No. 2.)

WASHINGTON, *Oct.* 18, 1879.

Rob. A. Balloch has this day endorsed a check, $4,105.80, to — applied to his houses on S St. as they advance.

WILLIAM R. HOOPER,
Ag't Mass. Mut. Life Ins.

Ex. C. L. H. No. 2. Equity. No. 8381. Chas. L. Hine, examiner.

(Ex. C. L. H. No. 3.)

WASHINGTON, *Feb.* 18, 1880.

Received of R. A. Balloch draft for $6,750, from Mass. Mut. Life Ins. Co., to be expended on houses on 16th and S street-.

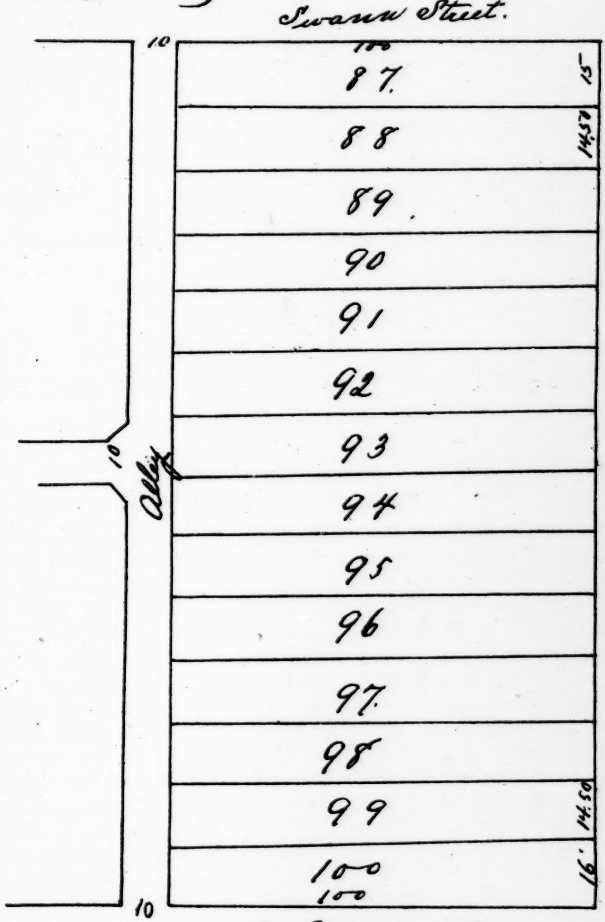
WILLIAM L. HOOPER,
Agent Mass. Mut. L. I. Co.

Ex. C. L. H. No. 3. Equity. No. 8381. Chas. L. Hine, examiner.

Ex C. L. H. No 1.

No 21.
Ballock
v.
Hookwetal.

p. 367. 177.



186

366½

Sept.

Oct

No

Ju

3

369 (Ex. C. L. H. No. 4.

Rec'd last of May, 1882	12
Loans	41,700
Building	22,500
Interest	3,800
Taxes	4,500
Adams	5,700
	78,200

Statement from Wm. R. Hooper.
Ex. C. L. H. No. 4. Equity. No. 8381. Chas. L. Hine, examiner.

(Ex. C. L. H. No. 5.)

WASHINGTON, *June* 4, 1879.

Mr. William R. Hooper, agent Mass. Mut. Life:

Mr. S. A. Terry being my agent in the erection of eight houses on 16th on which your company has loaned $16,000, his signature for monies advanced and in all business transactions is the same as my own.

ROB'T A. BALLOCH.

370 Ex. C. L. H. No. 6.

M. G. Emery, president. 2038. H. C. Swain, cashier.

Capital, $225,000.

SECOND NATIONAL BANK,
WASHINGTON, D. C., *July 30th*, 1879.

W. R. Hooper, Esq.

DEAR SIR: Yours to R. A. Balloch at hand and contents noted—would have written you but was not able to find your address—wrote to Gloucester Mass. once & got no answer & on making inquiry at the post office they said you were probably on the travel & it would be hard to reach you. Your letter does not give your address but is headed Washington D. C. I suppose the stamp-mark "Marblehead" is the place. When you made the last loan on 13th St. the deeds from McGregor to Balloch were made and were deposited with George Milburn in escrow to be delivered to Mr. Balloch on certain stages of the work the last No. 1308 to be delivered when the south house was finished & accepted by Mr. McGregor. The trust was given to you before the south house was finished, the south house when finished was accepted by McGregor & sold to my wife—he did
371 not put the deed upon record then & Mr. Balloch layed the papers before a lawyer & papers were drawn up to compel McGregor to carry out his contract & record the deed—which papers set forth that Balloch had executed a trust to the Mass. Mu. Life Ins. Co. for $2,250.00 & that the deed of the property was made to him but that Mr. McG. had failed to record—Mr. Balloch has had several chances to sell and make something if Mr. McG. would re-

cord—Mr. G. refused unless certain things were done & has finally concluded to leave everything to L. G. Hinds who has all the papers & not later than next week all will go on record as terms are now agreed upon. Balloch consenting to sacrifice on one of the houses in order to close the thing out—it may be necessary for your $400.00 to Edmonston to be paid off, if it is I will have Hind telegraph you—Balloch has always collected rents of No. 1508 & no claim of McGregor to ownership has ever been made—except by old Mr. Milburn for effect—I showed all the papers to Mr. Frank Smith & am willing to submit the matter to anybody or any court of equity. You may have abstract on your return for lot 1508 showing you the relation of $2,250.00 trust if you wish. I don't want you to order it I can do it and get Ashford's as a continuation & not as a new abstract so as to make the expense as little as possible.

Resp'y, S. A. TERRY,
Agent for R. A. Balloch.

372 (Ex. C. L. H. No. 7.)

WASHINGTON, D. C., *Aug.* 7, '79.

Wm. R. Hooper, Esq.

DEAR SIR: Mr. Wormley has in his hands $1,250 from some lady who desires to purchase house No. 1510, on sublot 86, square 241. She has had abstract made, & the following encumbrances appear of record:

1st. $400 to Appleby and Edmonston.
2nd. 2,250 " Mass. Mu. Life Ins. Co.
3rd. 1,200 " McGregor.

Wormley, by a certificate given to L. G. Hine, Esq., which we enclose, offers to pay $1,250.00 to him on the $400.00 being released. The release for $1,200.00 Mr. Hine will deliver him on receiving the $1,250.00, so that Wormley get his house clear excepting the company's $2,250 trust, which he agrees to assume. We enclose Mr. Hine's letter stating that, on the receipt of $1,250.00, which Mr. Wormley agrees to pay, he will deliver deed to you of sublot 87 from McGregor for record, which will make your $2,250 good & make it first encumbrance.

We certify that the above is true, & that when the encumbrance of $400 to Appleby & E. is paid it will make all liens held by the Mass. Mu. Life Ins. Co. on the 13th-street houses 1st mortgages.

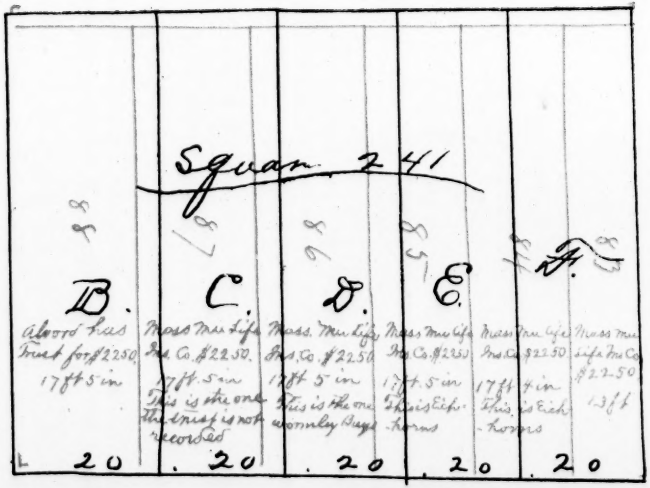
373 We further certify that the plat made below is a true one of the grounds on which the company made mortgages on 13th street.

Respectfully, ROB'T A. BALLOCH.
S. A. TERRY.

P. S.—Please look on page 4 of this sheet.

(Here follows diagram marked p. 373.)

No. 21.
Balloch
vs
Hooper et al
} p. 343.



13" Street

The red-ink figures 83 to 88, inclusive, is Balloch's recorded subdivision of B, C, D, E, & F of McGregor's & others' subdivision of lots 58, 59, & 60 of Kingman's subdivision of square 241.

Mr. HOOPER: You will please wire to Mr. Bingham, at my expense, to deliver the two checks he holds on Saturday without fail, as I am greatly pressed for the money.

ROBERT A. BALLOCH.

374 Ex. C. L. H. No. 8.

L. G. Hine, attorney-at-law, opposite city hall.

WASHINGTON, D. C., *Aug. 7th*, 1879.

Robert A. Balloch, Esq.

DEAR SIR: I have in escrow to be delivered on payment of $1,250.00 a deed of conveyance from Jno. F. McGregor & wife to you of that part of lots B & C of McGregor & Milburn's sub. of lots 58, 59, and 60 of Kingman's sub. of sqr. 241 beginning 17 ft. 5 in. north from the southeast corner of lot B and running back by the width of 17 ft. 5 in. to the rear line of said lot.

I am instructed to and will deliver this deed on payment of $1,250 within ten days.

Very truly, L. G. HINE.

375 Ex. C. L. H. No. 9. Equity. No. 8381. Chas. L. Hine, Examiner.

This indenture, made this twenty-fifth day of February, in the year of our Lord one thousand eight hundred and eighty, by and between Robert A. Balloch, of Washington, in the District of Columbia, unmarried, of the first part, and William R. Hooper, of the same Washington, of the second part, witnesseth:

That the said party of the first part, for and in consideration of the sum of five thousand dollars previously advanced and one dollar in lawful money of the United States to him in hand paid by the said party of the second part at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, enfeoffed, released, and conveyed, and doth by these presents grant, bargain, sell, alien, enfeoff, release, and convey, unto the said party of the second part, his heirs and assigns forever, the following-described real estate, situate in said city of Washington, District of Columbia: Lots 18, 19, 20, 21, 22, 23, and the western five feet one inch front by the depth of lot 24 of Jones, Adams and Duvall's subdivision of part of square one hundred and seventy-seven (177), as per plat recorded in Book "J. H. Ketchum," page 345, of the records of the surveyor's office of the
376 District of Columbia; and also lots 80, 91, 82, 83, 84, 85, 86, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, and 100 of Robert A. Balloch's subdivision of part of said square as per plat thereof recorded in Book No. 10, page 54, of said record of surveys, the party of the first part meaning and intending hereby to convey to said party of the second part all the property and real estate conveyed

and described in a certain deed from John A. Adams and wife, recorded in Liber No. 898, folio 419, of the land records of the said District, except lots 87 and 88 of said Balloch's aforesaid subdivision.

Together with that certain piece or parcel of ground situate and being in said Washington and known and described as lot lettered H, in W. W. Corcoran's recorded subdivision of lots one (1) and thirty-seven (37) to fifty (50), both inclusive, of a former subdivision of square 446, said lot fronting 18 feet 9 inches on Sixth street N. W. and running back 120 feet to an alley.

Together with those certain pieces or parcels of ground in said Washington known and described as lots fourteen (14) and fifteen (15), according to S. A. Terry's recorded subdivision of original lot numbered one (1), in square seven hundred and twenty-two (722), or said subdivision is recorded in surveyor's office of said district in Book R. L. Hoxie, page 25.

Together with all the improvements, ways, easements, rights, privileges, appurtenances, and hereditaments to the same belonging or in anywise appertaining, and all the remainders, reversions, rents, issues, and profits thereof, and all the estate, right, title, interest, claim, and demand whatsoever, either at law or in equity, of the said party of the first part of, in, to, or out of the said pieces
377 or parcels of land and premises:

To have and to hold the said piece or parcel of land and premises, with the appurtenances, unto the said party of the second part, his heirs and assigns, to his and their sole use, benefit, and behoof forever.

And the said Robert A. Balloch, for himself, his heirs, executors and administrators, doth hereby covenant, promise, and agree, to and with the said party of the second part, his heirs and assigns, that he the said party of the first part and his heirs shall and will warrant and forever defend the said piece or parcel of land and premises and appurtenances, unto the said party of the second part, his heirs and assigns, from and against the claims of all persons claiming or to claim the same, or any part thereof, by, from, under, or through him.

And further, that he, the said party of the first part, and his heirs, shall and will, at any and all times hereafter, upon the request and at the cost of the said party of the second part, his heirs or assigns, make and execute all such other deed or deeds or other assurance in law for the more certain and effectual conveyance of the said piece or parcel of land, and premises, and appurtenances, unto the said party of the second part, his heirs or assigns, as the said party of the second part, his heirs or assigns, or his counsel learned in the law, shall advise, devise, or require.

378 In testimony whereof, the said party of the first part has hereunto set his hand and seal on the day and year first hereinbefore written.

ROBERT A. BALLOCH. [SEAL.]

Signed, sealed, and delivered in the presence of—
G. W. BALLOCH.

379 DISTRICT OF COLUMBIA, *To wit:*

I, G. W. Balloch, a notary public in and for the District aforesaid, do hereby certify that Robert A. Balloch, party to a certain deed bearing date on the twenty-fifth day of February, A. D. 1880, and hereunto annexed, personally appeared before me, in the District aforesaid, the said Robert A. Balloch, being personally well known to me to be the person who executed the said deed, and acknowledged the same to be his act and deed.

Given under my hand and notarial seal this twenty-fifth day of February, A. D. 1880.

G. W. BALLOCH,
Notary Public.

380 Ex. C. L. H. No. 10.

Outstand- indebtedness on property on Sq. 177 purchased from J. G. Adams by Rob't Balloch.

Merchant, cor. 15 & S Sts.	$72 00
" " 12 & Q	5 00
Thos. Somerville	71 39
Edwards (plumber)	21 00
Johnson (tinner)	17 00
Williams, hardware	3 00
Plumley (frames), closet	60 00
Tursie, when he finishes S St.	18 00
J. R. Riggles, paint	117 00
Dr. Adams, order	28
Donalson, sand	11
Hamilton, cor. 9 & D	3 50
Thos. Smith	182
Brick Co.	17 50
Riley, about	12
Concrete, 2 S-St. houses	45
Ayers & Belt	160
J. G. Heate, about	60
	$903 39

Am't br't up	$903 39
Mr. Burch	17 00
	$920 39
Chas. Kennedy	66 00

To be paid by Mr. W. R. Hooper before final settlement of the ¼ to himself and ¾ to be paid to whomsoever I may name to him.

Ex. C. L. H. No. 10. Equity. No. 8381. Chas. L. Hines, examiner.

381 Ex. C. L. H. No. 11.

Memorandum of agreement made this 26 day of Feb'y, 1880, betw. Rob't A. Balloch & Wm. R. Hooper: Mr. Hooper is to finish the houses on 16 St. & S St., and when the same are sold, he is to retain one-fourth (¼) of the net profits after all bills and demands are paid now standing against said Balloch on account of said property; the remaining three-fourths (¾) of the net profits to be paid to whomsoever I may hereafter name. It is understood that the bills named in the schedule are not to be paid until Mr. Hooper can arrive at the amount of equity in the property.

Ex. C. L. H. No. 11. Equity. No. 8381. Chas. L. Hines, examiner.

382 Ex. C. L. H. No. 12.

Ex. C. L. H. No. 12. Equity. No. 8381. Chas. L. Hines, Examiner.

In account with Rob't A. Balloch.

Cr.

1879.				
June	6.	By am't p'd Studefant, assessor, 16.00; ins. on $150, trust on 13 St., 7.50	23	50
		" balance of int. due on 13 St. from Jan'y, 12.50; ins. renewed on 2 house-, 13 St., 12.50	25	00
		" 4 insurance policies	20	00
	7.	" cash for recording 8 trust-, 18; 1 ctf. from Ward, —	19	00
		" cash, $300; p'd brick Co., $300	600	00
		" " Adams, $4,200; c'k to Balloch, 200	4,400	
	10.	" draft J. D. Kitch, endorsed payable July 9	700	
	13.	" cash	220	
	14. 18.	" " p'd brick Co.	189	
	21.	" "	125	
	28.	" "	240	
	30.	" "	40	
July	3.	" "	225	
	7. 10.	" order given Gen'l Balloch, ins.	20	
	12.	" cash	130	
	19.	" cash, 1,000; ins. on 3 houses on 13 St., 339.50; paym't on 15, sq. 722, 320.85	1,658	35
	22.	" cash	300	
		" order given Smith	26	38
		" " " "	45	
		" cash	300	
		" "	300	
	29.	" order given Holbrooks, accepted Sept. 10, for 90 d's	700	
Aug.	9.	" cash	60	
	16.	" "	30	
	23.	" order given Wormly	125	
Sept.	6. 8.	" pay off trust on 13 St.	150	
		" taxes on 13-St. house, sold Smyth	104	17
		" am't p'd Ward	10	
	10.	" insurance, 60 days	20	
	13.	" am't p'd Stephens, of Bal'o, 200; order on Thos. Smith, 425	625	
	17.	" cash, 60; bond note of Mitchell, 27.25	87	25
		" order Caverly & Co.	47	64

	20.	By am't paid for centre pieces	23	
		" " " Stephen, of Bal'o, 100; cash, 50	150	
Oct.	7.	" am't paid Stephen, of Baltimore, 200; cash, 50; cash, 12	262	
	10.	" cash	60	
	15.	" order, Kennedy, 57.40; order, Smith, 45	102	40
	18.	" cash	100	
	23.	" "	90	
Nov.	6.	" p'd Kitch	200	
Sept.	18.	" cash	25	
Dec.	8.	" am't paid Sturdevant, 10.20; recording, 22.25; insurance, 20	52	45
		" am't credited on # 15, sqr. 722, 208.33; marl, 14.85; cash, 6.42	229	60
		" order given Somerville	94	50
	9.	" " " Thos. Smith	162	74
	13.	" am't p'd brick Co.	1,100	
		" order given Dennis Kelley, 27; cash, 50	77	
	16.	" roof	100	
	20.	" cash	100	
	27.	" "	25	
1880.				
Jan'y	2.	" cash, 7; order, Smith, 33.75	40	75
		" order given Kennedy for lime	100	
	10.	" cash	20	
		" "	12	
		" "	43	
			14,724	73
		Ins. on above amounts from date of payment to time property was transferred, 8 %	662	67
		Balance of purchase-money due Adams	9,946	66
		Int. on am't due Adams from date of notes up to transfer of property	788	46
		Taxes dues due on property at date of transfer (approximately)	4,200	00
		Estimate- cost of finishing houses at time of transfer	8,300	00
			38,622	52
		Am't due R. A. Balloch to bal. ac.	30,742	17
			69,364	69

382½ The Mass. Mutual Life Insurance Co.

DR.

To sale of corner house (cor. 16 & S Sts.)	7,500	
" " 6 houses on S St	18,200	
" " 1 house on 16 St	3,500	

To value of 10 houses on 16 St. at 3,500			35,000
" " " 9,875 ft. of ground on Swan at 40c			3,914
" difference between price sold at and am't rec'd for the Pettit & Dripps' house			1,250 69
" price sold at or agreed upon		$4,000	
" work done	1,875 66		
" am't p'd on brick Co.'s note	573 65		
" " " taxes	300		
		2,749 31	
		$1,250 69	
			$69,364 69

383 Ex. C. L. H. No. 13.

Supplementary Statement.

The Mass. Mutual Life Ins. Co. of Springfield, Mass., to Rob't A. Balloch, Dr.

1883.			
Dec. 1.	To am't due as per bill rendered		$30,742 17
	" rent of 8 house- on 16 St. N. W., being numbers 1808, 1810, 1812, 1814, 1816, 1818, 1820, & 1822, from Apr. 1, '80 (at which time they should & could have been completed), to Dec. 1, 1883, 42 months, @ 25 a house per month		8,400 00
	" rent of 3 houses on 16 St. N. W., being numbers 1802, 1804, & 1806, from July 1, 1880 (at which time they could & should have been completed), to Dec. 1, 1883, 39 months, @ $25 a house per mo.		2,925
	" rent of 3 houses on S St. N. W., being numbers 1603, 1605, & 1609, from June 1, '80 (at which time they could & should have been completed), to Dec. 1, '80, 40 months, @ $20 per mo.		2,400
	" rent of house No. 1613 — St. N. W. from June 1, '80 (at which time it should & could have been finished), to date of sale, May 1, '83, @ $20 per mo.		700
	" rent of house No. 1611 S St. N. W. from June 1, '80 (at which time it should & could have been finished), to date of sale, Oct. 1, '83, @ $20 a mo.		800
	" rent of house No. 1607 S St. N. W. from June 1, '80 (at which time it should & could have been finished), to date of sale, M'ch 1, '83, @ $20 a mo.		660

To rent of house N. W. cor. 16 & S Sts. N. W. from July 1, '80 (at which time the house should & could have been completed), to M'ch 1, '82, about the date of sale, at $50 per mo.	1,000	
" interest on the above rent, @ 6 % per annum, to Dec. 1, '83	1,662	88
" interest on proceeds of sales of houses from date of sale up to Dec. 1, '83, @ 6 % per annum	982	50
	50,212	55

Ex. C. L. H. No. 13. Equity. No. 8381. Chas. L. Hines, examiner.

384 Ex. C. L. H. No. 14. Equity. No. 8381. Chas. L. Hine, Examiner.

William R. Hooper, tr., to Robert A. Balloch. } Release. Recorded March 21, 1882, 1 p. m.

This indenture made this first day of November in the year of our Lord one thousand eight hundred and eighty-one between William R. Hooper of the city of Washington, District of Columbia trustee of the first part, and Robert A. Balloch of the same Washington of the second part: Whereas the said Robert A. Balloch heretofore made and executed certain deeds of trust, bearing date on the fourth day of June in the year of our Lord eighteen hundred and seventy-nine, and recorded Liber No. 916 fol. 112, *et sig.*, and thereby conveyed unto the said party of the first part, and to the survivor of them, his heirs and assigns, the following-described real estate in the said city of Washington, District of Columbia, to wit: Lots ninety-two (92) ninety-three (93), ninety-four (94), ninety-five (95), ninety-six (96), ninety-seven (97) ninety-eight (98) and ninety-nine (99) in R. A. Balloch's subdivision of part of square one hundred and seventy-seven (177), also certain other deeds of trust, bearing date October 11th, 1879 and recorded Liber 925, fol. 257 *et seq.*, conveying to the said party of the first part, his heirs and assigns—lots eighteen (18), nineteen (19), twenty (20), twenty-one (21), twenty-two (22), and twenty-three (23), in said Balloch subdivision of said square
385 one hundred and seventy-seven (177); also certain other deeds of trust, bearing date February 17 A. D. 1880, and recorded Liber 937 fol. 99 *et seq.*, conveying to the said party of the first part, his heirs and assigns lots eighty-nine (89), ninety (90), ninety-one (91), and one hundred (100) in said Balloch's subdivision of said square one hundred and seventy-seven (177). In trust to secure the payment of certain indebtedness as therein mentioned, all of which will more fully and at large appear upon reference to said deeds of trust—and whereas, the said indebtedness and all interest, cost and expenses thereon having been fully paid and discharged, as is evi-

denced by the signature hereto of E. W. Bond, president of the Massachusetts Mutual Life Insurance Company of Springfield Mass., the said party of the second part is thereby entitled to a reconveyance of said described premises, and to have the same released and discharged of and from all liens, claims, demand or incumbrance, by reason of said deeds of trust, or anything therein contained; now therefore this indenture witnesseth, that the said party of the first part, trustee as aforesaid, for and in consideration of the premises aforesaid, and further the sum of one dollar, lawful money of the United States to him now in hand paid by the said party of the second —, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, released, and conveyed, and does by these presents grant, bargain, sell, release, and convey unto the said party of the second part his heirs and assigns forever, all the hereinbefore-described premises, and all the rights, privileges, and appurtenances to the
386 same belonging, or in anywise appertaining, to have and to hold the sams, unto and to the use of the said party of the second part, his heirs and assigns forever as in his first and former estate, full released and discharged of and from all lien, claim, or incumbrance by reason of said deed of trust.

In testimony whereof the said party of the first part as trustee aforesaid, has hereunto set his hand and seal on the day and year first hereinbefore written.

WILLIAM R. HOOPER, *Trustee.* [SEAL.]
E. W. BOND, [SEAL.]
President of the Mass. Mu. Life Ins. Co. of Springfield, Mass.

Signed, sealed, and delivered in the presence of—
J. T. CALDWELL.
H. A. WINANS,
To E. W. Bond.

387 DISTRICT OF COLUMBIA, } *scilicit:*
County of Washington, }

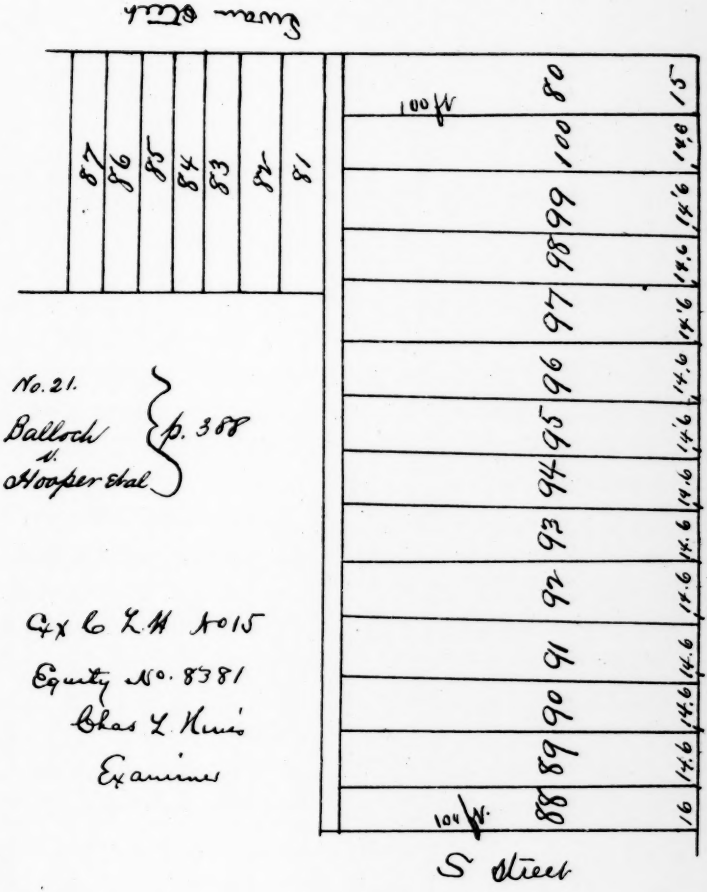
I, J. T. Caldwell, a notary public in and — the said District, do hereby certify that William R. Hooper, of the city of Washington, District of Columbia, party to a certain deed bearing date on the first day of November, A. D. 1881, and hereto annexed, personally appeared before me, in said District, the said William R. Hooper being personally well known to me to be the person who executed the said deed, and acknowledged the same to be his act and deed.

Given under my hand and my seal this tenth day of March, A. D. 1882.

J. T. CALDWELL, [SEAL.]
[NOTARY SEAL.] *Notary Public.*

(Here follows diagram marked p. 388.)

Ex C. L. H. No 15



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Ex C L H No 15
Equity No. 8381
Chas L. Kinis
Examiner

389 DISTRICT OF COLUMBIA, *ss:*

I, Charles L. Hine, examiner in chancery, do hereby certify that in pursuance of the annexed notice the foregoing depositions were taken down by me in short-hand in the presence of and from the statements of the witnesses at the times and place designated in the captions thereof and, after they had been transcribed, were read over by the witnesses and by them subscribed in my presence, the witnesses having been first by me duly sworn to testify the truth, the whole truth, and nothing but the truth touching the matters at issue in said cause.

I further certify that I am not of counsel for any of the parties to said cause or in any manner interested therein.

I further certify that my fee for taking said depositions, amounting to $161.64, has been paid me by Robert A. Balloch, the complainant in said cause.

CHAS. L. HINE,
Examiner in Chancery.

390 *Defendants' Testimony. Filed March* 19, 1885.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

DISTRICT OF COLUMBIA, *ss:*

Be it remembered that at an examination of witnesses begun and held before me in pursuance of notice on the 30th day of June, 1884, and continued from time to time by adjournment until the 26th day of January, A. D. 1885, when the within deposition of William R. Hooper was taken, I, Oscar Nauck, an examiner in chancery, did cause to be personally present at the law office of Messrs. Edwards and Barnard, at the different times therein mentioned, in the city of Washington, in said District, the within-named William R. Hooper to testify on the part and behalf of the defendants in a certain cause now depending in the supreme court of the District of Columbia, wherein Robert A. Balloch is the complainant and William R. Hooper *et al.* are the defendants.

OSCAR NAUCK, *Examiner.*

391 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

On the application of Messrs. Edwards & Barnard, solicitors for the defendants, I hereby appoint Monday, June 30th, 1884, at 2 o'clock p. m., and the office of said Edwards & Barnard, No. 412 5th St. N. W., in the city of Washington, as the time and place for

the oral examination of witnesses for the defence in the above-entitled cause; and I hereby direct that notice be served on H. B. Moulton, Esq., solicitor for the complainant, of the time and place fixed for said examination.

June 26, '84.

OSCAR NAUCK, *Examiner.*

To H. B. Moulton, Esq., solicitor for compl't:

Take notice that at the time and place mentioned in the foregoing order we shall proceed to examine witnesses for the defence.

June 26, '84.

EDWARDS & BARNARD,
Sol'rs for Def't.

Service of above order and notice acknowledged this 26th day of June, 1884.

H. B. MOULTON,
Of Counsel for Plaintiff.

392 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY *et al.* } No. 8381. Equity.

WASHINGTON, D. C., *June* 30, 1884—2 p. m.

Met pursuant to notice.

Present: Mr. H. B. Moulton and S. S. Henkle, solicitors for the complainant, and the complainant in person; Mess. Edwards & Barnard, solicitors for defendants, and the defendant Wm. R. Hooper in person.

Whereupon WILLIAM R. HOOPER, a witness of lawful age, being produced, sworn, and examined on the part and behalf of defendants, testified as follows:

My name is William R. Hooper; I am now 64 years of age; clerk in the Post Office Department.

By Mr. EDWARDS:

Q. Do you know the complainant, Robert A. Balloch; if so, how long have you known him?

A. Yes, sir; I should say since 1877—that is, seven or eight years.

Q. Do you know Seth A. Terry; if so, how long have you known him?

393 A. Yes, sir; about ten years.

Q. Do you mean last past?

A. Yes, sir; for ten years last past.

Q. Please state what knowledge, if any, you have of any loans made by the defendant The Massachusetts Mutual Life Insurance

Company to the complainant Balloch in June and October, 1879, and in February, 1880, secured by deeds of trust on what is known in this case as the 16th and S street property, in square 177.

A. In June, 1879, the Massachusetts Mutual Life Insurance Company loaned to Mr. Balloch, on eight lots by eight separate deeds, $16,000, being $2,000 on each lot; in October following they loaned him $10,200 on six different lots, being $1,700 on each lot, and in the January or February following they loaned him $9,000 more on four houses, three of them $2,000 each and one of them $3,000.

Q. What relations, if any, did you bear to the Massachusetts Mutual Life Insurance Company at the time these loans were made—what business relations?

A. General agent.

Q. When you say general agent what do you mean?

394 A. An agent in life insurance companies does not have the control of a territory; the company may appoint another. A general agent has the control of a given territory with the right of appointment under him.

Q. How came these loans to be made by the defendant insurance company to Balloch? State the circumstances, the terms and conditions of the loans, and how the payments were made by the company as nearly in detail as you can.

A. Mr. S. A. Terry, agent for Mr. Balloch, applied to me for loans on these houses on the usual terms of a payment of commission. I told him that the company had been forced to buy in two or three houses on which they had made previous loans to Mr. Terry, as agent, before, and I thought the company would be more likely to grant these loans if Balloch would take them off the company's hands at the cost price. Mr. Terry then made a written application for these loans, to wit, these eight loans of $2,000 each, and offered to buy two houses in the northwest part of the city at cost price—two houses known as the Archer houses. I went to *to* A. L. Sturtevant, of the Treasury, who was in the habit of appraising real estate on which I requested a loan, and asked him to

395 appraise the houses, and he did so and appraised them as perfectly safe security for $2,000. I forwarded to the company Mr. Balloch's application and Mr. Sturtevant's appraisement, and they replied that Mr. Fuller, their vice-president, was coming on to Washington, and would personally examine the houses. I was notified what day he was to be here. I notified Mr. Terry that on that day I would examine the houses. He told me that he would be there and he wanted that loan on the eight north houses on 16th street. I went up there with Mr. Fuller, but did not find Mr. Terry there nor Mr. Balloch. The two houses on which most work was done and which we principally examined were the two north houses. Mr. Fuller went over them, counted the houses done, and reported that they would be satisfactory security for $2,000 each on a first mortgage. He went home to Springfield, Massachusetts, and then I received a letter from the company, the houses being unfinished. It was the proposition of Mr. Terry, agent, that one-half the money should be advanced when the roof was on, the other

half when the houses were fully completed, and the money was sent to me—$8,000—I should say from memory, June 4th, less
396 Mr. Balloch's indebtedness to the company for interest on previous loans to Mr. Balloch. I think they were secured on what is known as the 13th and Q street property, at the day sent on, and less partial payment for the two Archer houses which he purchased of the company. I think in between 30 and 60 days I received the next payment in a draft payable to the order of Mr. Balloch, which I handed to him; he indorsed and handed back to me.

Q. You say that you deducted the interest that was due to the company at the time on account of loans previously made, secured on what is known as the 13th and Q street property, and also deducted a certain amount as payment on account of the purchase of the Archer houses. Please state whether such deductions were made with the consent or under an agreement entered into previously by Terry as agent for Balloch or by Balloch himself.

A. I deducted nothing; they were made at the request of Mr. Terry and with full knowledge of the facts.

Q. Please state, if you can, what was the price agreed upon to be paid by Balloch to the company for what is known as the
397 Archer houses.

A. Mr. Terry bought the houses at cost on the company's books, and they made the deductions. I never knew what the deductions were myself.

Q. When you say you never knew what the deductions were yourself, do you not know the amount of cash that you received on Balloch's account?

A. Yes, sir; I knew that I could tell by refreshing my memory by looking at the paper; I cannot tell from memory.

Q. Do you know the terms on which Balloch purchased the Archer houses?

A. The terms were to buy them at cost and to give a note for the amount of the original loan, and the balance to be deducted from these loans now made to him by the company. I do not know from my own knowledge the amount of cash that was to be deducted from these loans as payment of the Archer houses.

Q. Please state whether the cash that was deducted from these loans and money that was deducted for interest and cash payments on the Archer houses was made by the home office or by you after you got the money.

398 A. The deduction was made by the company at the home office.

Q. The drafts that you received from the company, as I understand you, were for the money payable on account of this $16,000 loan, less this interest and this cash or partial cash payment on account of the purchase of these Archer houses.

A. Yes, sir.

Q. Mr. Balloch has testified and so has Mr. Terry concerning an alleged defect in the title to one of the Archer houses. I wish you to state what that difficulty was and how it arose.

A. Mr. Terry, as agent for Mr. Archer, obtained, I think, five loans at one time on these houses at the northwest part of the city, known as the "Archer houses;" on three, I think, default was made in payment of interest. I put them up as trustee for that default of interest, and not until after a sale was made and after the property had passed into Mr. Balloch's hands and had been deeded back to me. Mr. Terry informed me that one of these deeds, drawn up, I think, by Brainard H. Warner, did not include a right of sale on default of payment of interest, but only in default of payment of note and therefore, there was a defect in title for selling be-
399 fore the note matured. Nothing was due at the time of sale but the interest.

Q. Do you recollect how long after sale was made by you for a default in interest under the supposed power concerning one of these houses that the principal and note secured by the trust became due?

A. I think it became due before I was informed of the fact that there was a defect in selling for interest.

Q. Did you know that at the time that this agreement was made to purchase this property by Balloch from the company?

A. I did not.

Q. When was it first brought to your attention and by whom?

A. On two of these Archer houses which Balloch had purchased at cost he had made on one a loan of a second mortgage to William Mayse. I asked Terry how it happened that he had not made a loan on the other one, and he replied that Mayse objected to a defect in the title, owing to its being sold on interest when it should have been sold on maturity of note. That was the first information I had of it.

Q. Can you state whether that was before this conveyance
400 of February, 1880, by Balloch to you of this property referred to in this case?

A. It was after.

Q. Can you state how the payments were made by the company to Balloch on the second loan of $10,200 and what deductions, if any, were made?

A. My remembrance is that as an inducement to the company to make the second loan he purchased at cost a house on Sixth street northwest known as the "Howard house," and the excess of cost over the original loan by the company to Howard was deducted as cash. The property was deeded to Balloch as well as the "Archer houses," and he gave back a deed of trust to the company to secure notes representing the balance of the purchase-money. The deed of trust given by Balloch was the same in amount as the original loan to Howard. The money was forwarded in two drafts, payable, I think, to the order of Balloch, indorsed by him, and returned to me.

Q. Now state how the money representing the last loan of $9,000 was forwarded to the company.

A. In two or three drafts; the bulk of it in two, and there was a little excess of $87.65; that is my impression.

Q. You may state in this connection whether you have
401 prepared a statement showing the actual cash receipts or cash payments forwarded by drafts and checks by the company to Balloch through you, and also of the interest deducted by the company, as you have stated, out of these loans, and also for payments on account of the purchases of the "Archer" houses and the "Howard" house also deducted; and, if so, read, giving the dates and amounts.

A. The cash payments are as follows:

June 4, 1879	$7,418 50
July 9, 1879	7,200
October 17, 1879	4,105 08
December 24, 1879	4,453 58
February 17, 1880	6,750
April 15, 1880	87 65
Total	$30,014 81

This is all the cash that was forwarded on these three loans.

Deducted by the company for interest:

June 4, 1879	$581 50
October 17, 1879	578 26
December 24, 1879	646 42
April 15, 1880	1,412 35
Total deductions for interest	$3,218 53

Deductions by company for houses sold as cash payment:

July 9th, 1879	800
Oct. 17, 1879	416 66
402 February 17, 1880	750
Total deductions	$1,966 66

Adding the three totals together amounts to $35,200, which is the aggregate amount of three loans.

Q. Please state whether or not the deductions for interest and for the cash and as a cash payment on the Howard house was agreed upon by Terry as the agent of Balloch and by Balloch before the loans were negotiated.

A. It was.

Q. Do you recollect whether or not a part of the cash that was payable by Balloch on the purchase of the Archer houses was held back at his request and subsequently deducted?

A. It held back from the first half of the loan and then the balance deducted out of the second half of the loan. Part of the purchase-money of the Archer houses was at his request held back until the last payment on the S-street houses.

Q. What knowledge, if any, had you at the time the $16,000 loan was agreed upon and the deed of trust executed and delivered by

Balloch to secure it of unpaid taxes on the property given as security?

A. I went down to the tax office to enquire what the taxes
403 on the lots were. They handed me out a list, of which I should say the minimum was $3 and the maximum $5, as the taxes on these lots on 16th street.

Q. What statement, if any, was made to you by either Balloch or Terry concerning the taxes due on the eight lots on 16th street which were deeded by Balloch in trust as security for this $16,000 loan at the time of or prior to the loan being made?

A. They never said a word about them.

Q. What knowledge, if any, had you or the company, so far as you know, concerning unpaid taxes on these eight lots at the time this loan was negotiated other than as you have stated, of making the inquiry you speak of?

A. I had no knowledge nor, so far as I know, had the company any knowledge of any other taxes than this $3.00 to $5.00 per lot which I have spoken of.

Q. You say that the money was agreed to be loaned or paid on these loans to Balloch in installments of one-half when the houses were under roof and the other half when fully completed. Please state whether, at the time this $16,000 loan was negotiated or at the time the deeds of trust were delivered as secured therefor, any
404 plat of the property was shown to you, by either Terry or Balloch, of the lots on which the houses were supposed to stand.

A. When the first draft of $7,418.00 had been endorsed to me by Mr. Balloch, Mr. Terry brought me eight deeds of trust to secure the indebtedness due the company of the $16,000, and showed me a plat, and I compared the plat with the deeds of trust and found that the deeds of trust secured the company for the $16,000 on lots according to this plat which was then shown me, at the north end of the lots on 16th street.

Q. Look at the plat I now show you, which is marked Exhibit C. L. H. No. 15 with the complainant's deposition, and state whether you recognize it; and, if so, what you know about it.

A. (Examining paper:) I think this is the one that Mr. Terry brought to me and left with me when he also left the deeds of trust to secure that $16,000.

Q. Please state what you found out about that plat afterwards.

A. Some months afterwards I found that this plat gave opposite ideas from the plats left at the city hall. These numbers—
405 beginning at the south is the smallest, and running up to the highest northward. The plat at the city hall began with tha small numbers at the north and ran southward, increasing in their numbers as they ran along.

Q. What effect, if any, did this have concerning the security?

A. There was no security whatever on five of the houses; it was the unimproved land, with the whole of Adams' mortgage underlying it.

Q. What was the condition, from your inspection of this plat and

the inspection of the houses, as you supposed, of the improvements on the eight lots that you were loaning the money at the time this loan was agreed to?

A. I supposed that I was loaning on the eight north houses on 16th street, and these houses on the day that I paid over the money were all under roof and were being rapidly finished.

Q. I call your attention to the deed from Balloch to you of February 25th, 1880, filed with the complainant's depositions and marked Exhibit C. L. H. No. 8. I wish you to state the circumstances under which that deed was executed to you by complainant.

406 A. Mr. Balloch pressed me pretty hard for money; made three requests that I should take these houses and complete them. I positively refused. At last I consented to take a deed of the whole property and he said he would sign it. I drew it up, Mr. Terry then being in jail. Balloch did not want to sign it until he had offered the property to a company on whose prosecution Mr. Terry was in jail on condition that they should release Terry from further prosecution. A lien of $1,000 was put on the property by John D. Kitch, and I pressed Balloch to sign it before other liens were put on. He did not sign it until after the company refused to release Terry. He then signed it and handed me the deed.

Q. Please state under what circumstances that deed was executed by Balloch to you—for what purpose.

A. To convey this property to me, that I might go on and finish the houses.

Q. Do you recollect where that deed was executed?

A. I have an impression it was executed in the office of

407 George W. Balloch. I am not sure.

Q. A paper purporting to be in the handwriting of George W. Balloch, marked Exhibit C. L. H. No. 11 with complainant's deposition, is now shown you. Please state whether you have any recollection of ever seeing that before this suit was commenced; if so, when and where?

A. I never saw this paper until it was produced in the course of this trial.

Q. Did you ever know anything of its contents or was it ever read to you of your knowledge?

A. I never knew its contents; not a word was ever said to me about it direct or indirect.

Q. Did you see it when is was written?

A. I did not.

Q. Did you ever know anything of its existence prior to this suit?

A. I did not until it was produced before the examiner.

Q. I also hand you a paper marked Exhibit C. L. H. No. 10 with complainant's deposition. Please state when you first saw that paper.

A. I never saw this paper until it was produeed before the examiner in chancery.

Q. Did you ever know of it prior to that time?

408 A. I never heard of it, direct or indirect.

Q. I now hand you a paper, which has been referred to before in this case, and, for identification, is marked with the initials of the examiner who took the depositions for complainant. Please state if you can identify that paper; and, if so, in whose handwriting it is and where and when you got it.

A. I suppose this paper is in the handwriting of Rob't A. Balloch. It was handed to me and left with me in my office not far from the 1st of March, 1880. I cannot identify the exact date.

Q. By whom was it left?

A. By Robert A. Balloch.

Mr. EDWARDS: This paper is offered in evidence and marked Exhibit No. 1.

Q. Please state whether or not you received from the complainant any other paper, to your recollection, indicating amount due for material and to laborers on account of these houses on 16th and S streets at or about the time of the execution of the deed of February 25th, 1880, from Balloch to you.

A. I do not now remember.

Q. Mr. Hooper, I understand you to state that the draft representing the first payment made by the company on June 4th,
409 1879, was endorsed by Balloch and then delivered to you.

A. Yes, sir.

Q. For what purpose was it delivered to you?

A. To pay him so much as was due to him under the agreement.

Q. Did you make any payments to him?

A. I did.

Q. How did you make those payments?

A. Generally in checks, but sometimes in cash, if I had it in my pocket.

Q. Were they paid to him or to his order, or how?

A. The majority of them was paid to Terry.

Q. Mr. Terry states in his testimony that certain payments were made by you from this account on account of the houses or to persons on Balloch's order on condition that you should receive a commission or was paid a commission.

A. I never charged one cent for such commission. I never received one cent for such commission, and there was never one word between Mr. Terry and myself about such commission—not one word.

Q. You state that the Adams loan underlay all of this property. Please explain what you mean by the Adams loan and what
410 part it figured in the matter of these loans by the company to Balloch.

A. This property on 16th and S streets was purchased of John G. Adams for $14,200, all of which was secured by mortgage and laid on the whole of it at the time these first loans were made.

Q. Do you recollect whether or not at the time that these loans were made that Adams trust or any part of it was due?

A. I do not remember.

Q. I asked you what figure this Adams incumbrance was to occupy in respect to these loans to Balloch.

A. As fast as a loan was made on any lot the Adams incumbrance was to be first released.

Q. Who was to pay it?

A. Legally Mr. Balloch was to pay it, but I paid it and took releases from Adams as fast as I made the loans.

Q. Has the Adams debt been paid in full, to your knowledge?

A. It has.

Q. Out of what moneys was it paid?

A. Out of these drafts sent on by the company and endorsed by Balloch.

Q. Out of the $30,014.81 which you received on these drafts, as you have stated?

411 A. Yes, sir.

Q. What did you subsequently learn, if anything, and when did you learn it, concerning the unpaid taxes on this property which was given as security for these loans?

A. I should say from memory that after I had been in possession of this property for three months I met Mr. Balloch on 7th street, opposite Wm. Ballantyne's book store, and told him I heard there were $2,000 or $3,000 taxes which I never knew of. He replied, Yes; I should find $4,000 or more. That was the first I ever knew of it.

Q. What was the result, if any, of your examination concerning the condition of this property as to taxes afterwards?

A. That there was $4,000 and more for special improvements due at the time of the conveyance from Balloch to me.

Q. Please state whether or not it was due at the time that the company made the first loan of $16,000 to Balloch.

A. It was due then.

Q. I call your attention to a letter, dated July 30, 1879, ad-

412 dressed to you, marked Exhibit C. L. H., with complainant's depositions. Look at that letter, state who wrote it, if you know, and what you know concerning the subject-matter of that letter.

A. This letter is in the handwriting of Seth A. Terry, agent for R. A. Balloch. I received that letter at Pigeon Cove, Massachusetts. I had 30 days' leave of absence from my office, and was paying $300 to $400 every Saturday to Terry or Balloch as the houses on 16th street were being finished. I drew up four checks of $300 and $400 each and handed them to a friend, to be delivered to Terry or Balloch each succeeding Saturday night. I was advised that a house on which I had made a loan to Mr. Balloch for $2,250 for the company he, Balloch, never had a deed of, but had given me a trust deed on it. I wrote to Balloch or to Terry stating that fact and requesting an immediate answer. They made no answer. I wrote a second time, stating that unless I heard from them within a few days I should stop my weekly payments. I wrote on and stopped the delivery of those checks. I then received two telegrams from Terry,

which I answered in writing, and then in answer to my letter
413 I received that letter.

Q. Please state what relation the property on 13th street, mentioned in this letter, had with the loans that you have been speaking about as made by the company to Balloch on what is known as the 13th and Q street property and an account of which interest was deducted from the $16,000 loan, as you have stated.

A. My impression is that there was one loan of $2,250 on each of three houses, and one subsequent loan of $2,250 on two more houses each, and on the last house of this last loan was the one which I was advised Balloch never had a deed of.

Q. Please state upon what condition the loan of $2,250 each was made by the company to Balloch on what is known as the 13th and Q street houses, as to title, &c.

A. The invariable condition of a good title.

Q. Please state when you first heard that Balloch had no title, as stated in this letter, to this McGregor house?

A. I was first informed July 18, 1879.

414 Q. I call your attention also to another letter, dated August 7th, 1879, to you, marked "Exhibit C. L. H. No. 7," with complainant's deposition. Please state, if you know, in whose handwriting that letter is and in whose handwriting the signatures are to it.

A. The three first pages of the letter are in the handwriting of Terry; the signature of Rob't A. Balloch is in the handwriting of Robert A. Balloch.

Q. In whose handwriting is that written on the back?

A. Robert A. Balloch's.

Q. Was this letter received by you?

A. Yes, sir.

Q. Please state what information you had, if any, at the time the company made this loan of $2,250 on the 13th and Q street lots of the trust of Appleby & Edmonston of $400, which was then an incumbrance on the property, as shown by this letter.

A. I knew nothing of it whatever.

Q. When did you first hear of it?

A. By this letter.

Q. Do you know how that $400 was paid?

A. I paid it by check to L. G. Hine, I think, one of the
415 loans on the 16th-street property.

Q. You have heard, Mr. Hooper, the statements made by Mr. Balloch and by Mr. Terry concerning the payment by you to Balloch and Terry or on their order on account of these houses out of these loans. What have you to say concerning the mode of payment, and particularly as to refusing to make payments, as desired, which were payable under the terms of the agreement?

A. I was always in advance of the amount due them under the agreement, and they so admitted to me again and again, and on one occasion Mr. Terry, without any solicitation on my part, brought in a mortgage covering the whole property, for $1,500, to secure me as an individual in case I had a-vanced too much, and on another oc-

casion he asked me if I would advance $225 on a mortgage covering the whole property, and I think I did.

Q. You have furnished a statement of the moneys that came into your hands on account of these loans for the purposes stated aggregating $30,014.81. I wish you to furnish at the next session
416 an itemized statement showing the actual cash disbursements made by you from this money, or from any moneys of your own, on account of what is known as the 16th and S street property, or on the order of either Terry, as the agent of Balloch, or of Balloch in person, or at their request?

A. I will do so.

Adjourned till Wednesday, July 2nd, 1884, at 7.30 o'clock p. m.

WEDNESDAY, *July 2nd*, 1884—7.30 p. m.

Met pursuant to adjournment.

Present: S. S. Henkle, Esq., of counsel for complainant, Mr. James S. Edwards, of Edwards & Barnard, counsel for the defendants.

Whereupon the examination of WILLIAM R. HOOPER was resumed.

By Mr. EDWARDS:

Q. At the last session you were asked whether at the time the $16,000 loan was made by the company to Balloch the notes given by Balloch to Adams for the purchase-money of the property were due, to which you answered you did not remember. Can you now state from any subsequent examination that you have made
417 what was the fact concerning the maturity of these notes at that time?

A. The notes matured at different times, two or three of them within a year and the last of them were due two or three years after that.

Q. Then I understand you to say part of them had matured and a portion had not?

A. Yes, sir.

Q. I also asked you at the last session out of what moneys the Adams debt was paid, to which you answered, out of the drafts sent you by the company. Have you any correction to make now concerning that statement? If so, state what is the fact.

A. The first $6,000 or $7,000 of payments to Adams was made by me out of drafts sent by the company. The last part of the indebtedness to Adams was not paid by me at all.

Q. You have stated that you received through these drafts from Balloch, to be disposed of as you have stated, $30,014.81. What did you do with it?

A. I paid it out in various sums as agreed upon at the time of the loans.

Q. Please give a general summary on what account you made these payments.

418 A. The largest payments were made to J. G. Adams on account of the purchase-money. I was in the habit of paying Balloch or Terry, as his agent, from $300 to $1,000 each week, as the work progressed on the houses. I paid $3,000 or $4,000 to extinguish certain mortgages which I found on the property. The mortgages were given by Balloch for moneys borrowed. I always understood that the money was to carry on the work up there. I do not remember of paying any taxes.

Q. You were requested at the last session to furnish a statement in detail of your disbursements on Balloch's account made in pursuance of agreements and the understanding you have mentioned. Have you that with you?

A. Yes, sir (producing it).

Q. Please state whether that is a true statement of your disbursements.

A. This is a statement of all my disbursements out of these loans. It is a correct and true statement, to the best of my ability and knowledge, of the expenditures made by me from the sums sent to me by the company from the loans. This statement shows the drafts received by me, as I testified the other day, and the
419 deductions for interest on account of purchases by Balloch of the Archer houses and the Howard house, concerning which I testified at the last session.

Q. Give the correct amount of your disbursements for Balloch or on his account or at his request as shown by this statement.

A. $37,236.66.

Mr. EDWARDS: This statement is offered in evidence, marked "Exhibit No. 2."

Q. From this statement of moneys held by you on Balloch's account through these drafts sent to him and indorsed by him to you, as you have stated, and of your disbursements it appears that you have expended or paid out $7,221.85 more than you have received from the sources mentioned. Please state whether you received from Balloch or on his account either from the income from this property or any other sources any other revenues. And, if so, how much?

A. I have received some small sums of rent. I should not think they would aggregate more than $300 or $400.

Q. Can you furnish a statement of what you did receive from rents?

A. Yes, sir.

Mr. EDWARDS: You are requested to do so at the next session.

420 Q. With the exception of these revenues from rents have you been reimbursed or repaid in any manner this difference over receipts?

A. I have not.

Q. Out of whose means were those payments made?

A. Out of my own.

Q. What commission, if any, did you receive or were you paid out of this money for negotiating these loans?

A. I think I was paid a commission amounting to $500.

Q. Were you paid or have you received from Balloch or charged him for services in any other respect on account of these transactions?

A. Not a cent.

Q. You state that this conveyance by Balloch to you was made at his request and to enable you to proceed to complete the houses. After this conveyance was made did you undertake to complete them?

A. I did.

Q. In what manner?

A. I took the houses nearest completion and finished them and rented them.

421 Q. At the time this transfer was made by Balloch to Hooper, or before it was executed, what knowledge, if any, had the insurance company that Balloch was to convey or going to convey the property to you?

A. They had no knowledge of it whatever.

Q. Do you know when they first heard of it to your knowledge? If so, state under what circumstances and the time.

A. I asked Mr. Frank H. Smith to go up to Springfield and state all the circumstances, which he did; that, I think, was in October, 1881. Then the company decided that they would go on and finish the houses, and I consented to it, and they employed Mr. Smith to finish the houses, which he did. After the company had expended about $20,000 I executed a mortgage to the company covering the whole property conveyed by Balloch to me, including the Archer houses, the Howard house, and the houses on 16th and S streets, for either $70,000 or $71,000, and to straighten the title I re-

422 leased all the trusts given by Balloch to me to secure this $35,200, being the three loans on the 16th and S street property, the loans on the Howard house, and the loans on the Archer houses, which I have before mentioned.

Q. Then I understand by this deed of trust to secure this $70,000.00 or $71,000.00 the Balloch notes secured on the property, as you have mentioned, were cancelled?

A. They were cancelled.

Q. Are you able to state what was the actual amount due to the company on the Balloch notes, with interest, at the time you gave this deed of trust for $70,000 or $71,000?

A. I do not recollect.

Q. I invite your attention to the statement contained in the lead-pencil memorandum, purporting to have been made by George W. Balloch, referred to in your testimony at the last session. What statement or agreement did you make with the complainant concerning profits, if any, growing out of the completion and the

423 sale of these houses at the time the conveyance was made to you by him, in February, 1880?

A. Robert A. Balloch never asked for any consideration for the

deed of all this property to me, but after he had agreed to execute the deed I said to him that if I made anything out of it he should have one-quarter.

Q. What did he say to that?

A. He made no reply, nor did he ever allude to it again until after this suit was brought.

Q. I wish you to give, if you can, the dates of the deeds of trust given to secure the $1,500 note made by Balloch to you and the $225.00 note which you spoke of at the last session.

A. I hold in my hand the original note given to me by Balloch for the $225.00. It is dated November 18th, 1879. This note has the signature of Robert A. Balloch to it. The $1,500 note was dated December 17th, 1879.

Mr. EDWARDS: This $225.00 note is offered in evidence, marked "Exhibit No. 3."

The WITNESS: This $225.00 note is charged up to Balloch
424 in this statement, and has been paid in no other manner.

Q. I hand you four sheets of paper, pages one, two, three, and four, all bearing the signatures of Charles L. Hine, examiner, who took the depositions of the complainant, being thus marked for identity. State in whose handwriting these four sheets are and under what circumstances they were made, and all about it.

A. These four sheets are in my handwriting. Mr. Terry and myself did not agree—I should say from memory—within $100.00, and I asked him to bring me in a statement made from his books and papers, to see how the account stood with me. He brought it in. Then I took my account and his account and I wrote down each item and then I wrote down first what he put down and then what I wrote down in parallel columns; and in that way we found exactly where the difference was. When he came the next time I showed him where the difference was and he substantially admitted
that my account was correct. I think it was December 9th,
425 1879. We found the difference between us to amount to $101.33, and then in Mr. Terry's presence and with his consent I put in $101.33 into the column of Mr. Terry's, and that made our columns exactly agree.

Q. Was that account ever disputed afterwards?

A. Never.

Q. State in whose handwriting the items are made after December 9th.

A. They are all in my handwriting and include actual payments made by me on the 16th-street houses.

Q. What was the result of your disbursements on account of this $16,000 loan, as shown by that paper?

A. That I exceeded the $16,000 by $87.85.

Q. I wish you to state whether that account, so far as it goes in accounting for the $16,000 loan, is correct.

A. Perfectly correct, because Terry agreed to it.

Mr. EDWARDS: This paper is offered in evidence, marked "Exhibit No. 4."

Q. Did Balloch, to your knowledge, ever make any pay-
426 ments to the company, either as principle or interest, other than through you, out of these three loans, on account of the promissory notes which the company held of his at the time these three loans were negotiated or on account of the notes representing these three loans?

A. He did not.

Q. Are you able to state what was the amount of money to Balloch's credit in your hands at the time of the transfer by him to you of this property on February 25th, 1880?

A. The amount to his credit was $6,268.42. It is ascertained in this manner: The company sent me five drafts, aggregating $29,927.16, being the same drafts forwarded to me for Balloch, as I have testified, on account of these three loans, and I had actually disbursed on Balloch's account $23,658.74.

Q. At the time of this transfer, as subsequently ascertained, what was the incumbrance on the property due to Adams for the balance of the purchase-money and unpaid taxes?

427 A. There was about $8,000.00 due to Adams, and $4,500.00 for taxes, which taxes I did not know were due at the time, but ascertained subsequently, as I have stated.

Q. Now, contemporaneous with the transfer by Balloch to you or within a short period thereafter, what disbursements, if any, did you make on Balloch's account out of this money?

A. I paid the following sums, all of which were secured by deeds of trust executed by Balloch on this property, viz: To William Mayse $400 the very day of the transfer or the next day; then about three days after I paid William B. Moses $1,122.65, Marvin Eastwood $1,209.00, and John D. Kitch $254.50. This last sum was a part of a lien of a $1,000 which had been previously placed upon the property.

Q. You have stated that you found certain representations made by Terry concerning the condition of these houses as to improvements were not true, and also that one of the houses known as the 13th and Q street property, on which the company had
428 loaned money to Balloch, was not in Balloch's name. Have you any recollection of any other misrepresentations of Terry to you concerning these 16th-street houses at the time the first loan was placed thereon of $16,000 by the company?

A. Mr. Terry told me he wished to borrow $2,000 on each of the eight north houses on 16th street, the last one north abutting on Swann street, and I went with Mr. Fuller, vice-president of the insurance company, to examine them. The northern two houses which I examined at Mr. Terry's request had been, I now remember, previously deeded—one to Pettit and Dripps and the other, I think, to Mr. Eastwood, so that I examined property belonging to other parties.

Q. Mr. Balloch states on page 16 of his testimony that he could only get money from you in driblets?

A. I paid it in advance of what was due according to the agree-

ment and in large sums. One day I paid $4,200.00 to J. G. Adams at his request.

429 Q. Balloch also testifies on page 18 of his testimony that the transfer by him to you was at your earnest solicitation over and over again; that he tried to get you to make certain payments before and you would not do it, and only one of them would you make, and he refused to make the transfer until you made that payment. What have you to say to that?

A. There was one payment of $400 which he wanted me to make and I agreed to make it, but it is not true that it was at my solicitation that this deed was made to me, as I refused three several times to accept the property without any consideration whatever.

Q. You refer to this $400.00. Is that the same $400.00 that you spoke of that was withheld under your instructions while at Pigeon Cove, Massachusetts?

A. No, sir; he owed $400.00, I think, to Hayward and Hutchinson.

Q. Look at the paper I now hand you, being exhibit marked "C. L. H. No. 4" with complainant's depositions. State what you know about that.

430 A. The five items and the amounts are in my handwriting. Mr. Balloch came in and asked me how that account stood with these houses and I sat down and made this from memory on a little piece of paper and handed it to him, showing the state of the expenditures up to that date.

Q. You say you made it from memory?

A. Yes, sir; I think.

Q. Do you recollect the date?

A. I think in May, 1882. The memorandum at the top and at the bottom of these items is in Mr. Balloch's handwriting.

Q. Please state whether at any time you refused to furnish Mr. Balloch with a statement of this account that you are speaking about.

A. I told him it would take me two or three weeks to make out a detailed statement; that I knew that this was substantially correct. I never refused to furnish one, except by telling him that it would take some weeks to make it. I never furnished any other than this.

431 Q. In your disbursements after this transfer by Balloch to you towards completing these houses, what efforts, if any, did you make towards economy?

A. Everything was done by contract, under the suggestion of Mr. Covington, who was recommended to me as an economical builder.

Q. What complaints, if any, did Balloch or his agent, Terry, ever make to you concerning the condition of these houses or the work that was being done thereon or their general management?

A. Balloch complained that I engaged Mr. Covington when he thought I should have engaged him to complete them.

Q. What did you say to him concerning that suggestion?

A. I laughed at him and told him that he had to have Mr. Terry build his houses for him; he did not build them himself.

Q. Mr. Balloch states, on page 36 of his deposition, that at the time of the giving of this first deed of trust on making this
432 first loan, meaning the $16,000 loan, he was not indebted at the time to either the company or you. Is that true?

A. He was indebted to the company in five sums of $2,250 each, secured by the deeds of trust on what is known as the 13th and Q street property.

Q. Mr. Balloch also states something about your being paid interest by Eichorn, he indicating or insinuating in his testimony that the interest that was deducted by the company as due on the 13th and Q street property from the $16,000.00 loan was not due when deducted.

A. It was due, and he admitted at the time, and you will find it charged on Terry's statement.

Q. When you say charged what do you mean?

A. He had it down on his statement for which he, Terry, in his statement had given credit to the company.

Q. Mr. Balloch undertakes also to state that he expended
433 about $7,000 on this property. I wish you to state what knowledge, if any, you have concerning the payments for the material that was purchased for this property, and what knowledge, if any, you have of any material purchased by Balloch out of his own means.

A. I never knew of his purchasing any materials out of his own means. The bricks for the houses were paid by a deed of trust of one of the other houses on 16th street to the brick company, on which I afterwards paid $1,100.00 out of these drafts sent me by the company. The plumbing was paid for by a deed to Pettit and Dripps of other property on 16th street. The lumber was bought of John D. Kitch, who afterwards put on a lien of $1,000. I paid $250.00 of it and gave Balloch's notes for $750.00 for the balance. The materials for plaster was not paid for because I paid it to Kennedy.

Q. How about labor? Do you recollect of any deeds of trust given for money for labor by Balloch?

A. None that I know of. Money was also borrowed on se-
434 curity of this property as follows: $300.00 of Pomeroy, $400.00 of Mayse, $1,100.00 of Moses, and $1,200.00 of Eastwood, all of which have been paid off by me, as I have stated.

Q. Can you state of your own knowledge what amount of moneys have been expended by the company in building houses on these lots or in completion of those on it at the time you executed the deed of trust?

A. I have been told that the amount was between $20,000.00 and $27,000.00 that the company has expended towards completing the houses included in these three loans and in the construction of three new ones on a portion of the same property included in the deed from Balloch to me.

Q. Do you know the amounts that the company has collected from

rents or realized through sales of the property conveyed by Balloch to you by the deed of February 25th, 1880?

A. I know of a sale of a house for which $7,500.00 was paid to the company, but I have been informed of six other houses con-
435 tracted to be sold, deeds having been given for three of them. The purchase price agreed upon for each was, as I have been informed, $3,000.00. Five of them front on S street, the other on 16th street, and the Howard house, on 6th street, has also been sold for $3,500.00.

Q. What pecuniary benefits have you realized from this property to this time (not taking into consideration your overpayment) other than $500.00 commissions?

A. None whatever.

Adjourned to meet on Monday, July 7th, 1884, at 7.30 p. m., at same place.

OSCAR NAUCK, *Examiner.*

WASHINGTON, D. C., *July 7th*, 1884—7.30 p. m.

Met pursuant to adjournment.

Present: The counsel for the respective parties.

Owing to the death of the son of the witness, William R. Hooper, the session was further adjourned, and to meet on notice of
436 counsel for the defendant.

OSCAR NAUCK, *Examiner.*

WASHINGTON, D. C., *Sept. 16th*, 1884—2 p. m.

Met pursuant to agreement.

Present: Messrs. Edwards and Barnard, solicitors for the defendants; Mr. H. B. Moulton, of counsel for complainant, and Seth A. Terry, Esq.

Whereupon the examination of WILLIAM R. HOOPER was resumed.

By Mr. EDWARDS:

Q. At a previous session you were requested to produce a statement of the rents collected by you from the property in controversy and of the disbursements made on account thereof. Have you prepared such statement?

A. I have, and produced it, which is a correct statement of all the rents received by me and of the disbursements actually made in addition to those heretofore testified to on account of the
437 property. The aggregate net rents as shown by this statement is $1,219.32. When I testified as to the net rents collected by me at a previous session I did so from memory, not having the actual figures before me.

This statement is offered in evidence, marked "Defendants' Exhibit No. 5."

Q. What agreement, if any, was made between you and the com-

plainant, Balloch, concerning the commissions you were to be paid for negotiating and securing these loans on the property in controversy?

A. I was to be paid 2½ per cent.

Q. What is the aggregate amount of the commission charged by you and for which you claim credit in the statement of receipts and disbursements on account of these loans, heretofore testified to by you and offered in evidence?

A. $1,010.00.

Q. Give the items of these credits to you in this statement.

A. June 6th, 1879, $400.00; October 18, 1879, $255.00;
438 February 19th, 1880, $255.00; February 28, 1880, $100. By these credits to myself I find that I have made an error in the charge for commissions of the difference between $1,010 and $880, amounting to $130.00.

Q. Now, state the actual amount of moneys that you have disbursed and paid out and for which you were entitled to credit on account of these houses, after allowing credit to Balloch for the net rents and the error in commissions, over — above what *what* you have received.

A. $5,872.53.

Direct examination here closed.

Adjourned to meet at same place on Friday, September 19th, 1884, at 2 o'clock p. m.

OSCAR NAUCK, *Examiner.*

439 WASHINGTON, D. C., *September 19th*, 1880—2 p. m.

Met pursuant to adjournment.

Present: Mess. Edwards & Barnard, counsel for the defendants, and H. B. Moulton, Esq., of counsel for complainant.

Whereupon the cross-examination of the witness, WILLIAM R. HOOPER, begun.

By Mr. MOULTON:

Q. Mr. Hooper, please state the length of time that you resided in Washington and where you resided previous to coming to Washington.

A. I have resided in Washington about 21 years, and previous to that I had resided in Worcester, Massachusetts.

Q. What has been your business and employment since you have been in Washington?

A. Principal employment, clerk in the department; subordinate employment, agent of the Massachusetts Mutual Life Insurance Company.

Q. When were you appointed agent of the Massachusetts Mutual Life Insurance Company?

440 A. About fifteen years ago.

Q. Was your appointment oral or in writing?

A. In writing.

Q. Is your appointment still in existence; and, if so, will you exhibit it?

A. If it is in existence I will bring it at the next meeting.

Q. Have you, since you have been in Washington, engaged in any other business than that of clerk in the department and as agent of the insurance company; and, if so, what?

A. I do not remember any other.

Q. What was the character of your agency—that of a general agent or a special one?

(Objected to because counsel has asked for the production of the written appointment, which the witness has consented to produce if he can find it, and therefore incompetent.)

A. General.

Q. From the time of your appointment up to the time of the transaction involved in this suit, did the company have any other agent in Washington to attend to their business for any portion or part of that time?

441 A. I do not know.

Q. If they had had any would you not have been likely to have known of it?

A. I heard of a person who was in the Government Printing Office getting applications for life insurance for the company, but I never saw him and don't know his name and don't know that he was a regular agent.

Q. Then, so far as you have any knowledge, you attended to the business of the company in the District for the period of time covered by the previous question?

A. Mr. Frank H. Smith was an agent for a short time, or subordinate agent, I do not know which.

Q. When?

A. About the time of the giving of these notes on the Sixteenth-street property by Balloch.

Q. Did Mr. Smith have anything to do with the making of these loans to Balloch?

A. He did not.

Q. Did you ever make any loans, as agent for the defendant company, prior to these Balloch loans involved in this suit; and, if so, how many and to whom?

442 (Objected to unless the question is intended to cover loans testified to in chief to the complainant, Balloch, and the Archer notes.)

A. I must have made, I should think, a dozen, but the names have escaped me mostly. One was to a man named Howard, another to a Mr. Vail and to Thomas McGill, and others to J. B. Archer. I did make some others, but I cannot now recollect the names of the parties.

Q. At the time of making the loans to which you have referred did you occupy the same position that you did at the time the Balloch loans were made?

(Same objection.)

A. I did.

Q. Were those loans made upon the same terms and conditions that you have testified the Balloch loans were made?

(Same objection.)

A. Those to Balloch were made half cash and half on the completion of the houses; the others spoken of were generally made all cash.

Q. Did you have the same interests in the loans to which you have referred that you did have in the Balloch loans?

443 (Objected to because the question implies that the witness has testified that he had an interest in the Balloch loans, which is not the fact, as counsel for defendants recollects the testimony, and counsel for the complainant is requested to point out from the testimony of witness such statement of interest, if any.)

A. I do not remember that I have said I had any in the Balloch loans.

Q. Have you testified that you were to receive 2½ per cent. of the Balloch loans as commission?

A. Yes, sir; I have testified to that.

Q. Now I will repeat: Have you had in the other loans to which you have referred a similar interest?

(Objected to as incompetent and irrelevant.)

A. No, sir; I have not.

Q. Have you in any of them; and, if so, how many?

(Same objection.)

A. I think not from any of them.

Q. Does your appointment as general agent of the company disclose and specifically describe the nature and the amount of your compensation from the company?

444 (Objected to because it appears by the testimony that the appointment is in writing, which is the best evidence if found, and therefore the question is incompetent.)

A. I do not remember.

Q. Has there been any change in the nature or character of your appointment since made; and, if so, what, and when?

A. There has been no change in my appointment.

Q. How long, Mr. Hooper, did you say you have known Mr. Balloch?

A. Seven or eight years.

Q. How was Mr. Balloch employed or engaged when you first got acquainted with him?

A. I do not know, except that he was building houses.

Q. When was the first loan made on the 16th-street houses, and who first approached you in relation to it?

A. I cannot tell when the first loans were made without refresh-

ing my memory by looking at the documents. Mr. Terry first approached me in relation to it.

Q. The papers disclose that that loan was made in June,
445 1879. How long before that time was it that Mr. Terry first approached you?

A. Speaking from memory, I should say two months before.

Q. Was Mr. Terry's application oral or in writing?

A. First oral, then in writing.

Q. How long after was it before you saw Mr. Balloch in relation to the loan?

A. I think I did not see Balloch on this matter till after the first loan was made.

Q. With whom was the whole transaction and negotiation as to the first loan conducted?

A. With Mr. Terry.

Q. How was the money loaned by the company—the $16,000 to be paid over to Mr. Balloch?

A. As fast as the title should become good and the buildings become finished.

Q. Did you or did you not have the title to this property examined; and, if so, by whom?

A. Mr. Terry brought me the certificate, I think, of Mr. Ashford.

Q. Where is that certificate?

A. I don't know.

Q. Did you ever have it?

446 A. Yes, sir.

Q. Do you remember what you did with it?

A. I do not.

Q. That certificate, I suppose, was satisfactory to yourself and to the company as to the title of the property?

A. Yes, sir; I accepted it as such.

Q. Then what do you mean by your previous answer in which you stated that the money was to be paid over as the work advanced and the titles were made perfect?

A. Mr. Ashford's certificate showed indebtedness which complainant was to remove before he was entitled to any part of the loans.

Q. Was that indebtedness still resting on the property when the loans were made?

A. I paid some money down to Balloch when he executed the notes and the deeds, and reserved some with which I paid Adams for executing releases on certain parts of the property.

Q. Then, as I understand you, the loans had been made and the money was in hand at the time of the execution by Balloch of the papers?

447 A. No, sir; Balloch executed the notes and papers and handed them to me, and I sent on the notes to the company, I think, and left the deeds of trust for record, and the company then sent me a check for money.

Q. Then, Mr. Hooper, what do you mean in an answer just previously given in which you stated that at the time Mr. Balloch

signed the notes and executed the papers you paid him part of the money and retained a part to pay Adams with?

A. I think I remember now that he executed the papers and gave them to me before I had any money, and the day the money came on I handed him some and retained some for Adams.

—. Mr. Hooper, in a previous answer you stated that before Mr. Balloch was entitled to any part of this loan he was to remove the incumbrances on the property. Now, have you not testified in your examination-in-chief that the agreement between you and Mr. Balloch was that you should retain money in your hands to pay the Adams deeds of trust and incumbrances yourself?

448 A. There was some understanding to that effect. There was no specific agreement.

Q. What is your best recollection now, Mr. Hooper? Was Mr. Balloch to pay off the incumbrances before he received the funds or were you to retain enough of the funds to pay off the incumbrances yourself?

A. Either.

Q. Have you not already testified in relation to the matter, 1st, that Mr. Balloch was not entitled to receive any part of the money until he paid them off again; on another occasion that you were to retain the money in your hands and pay them off; and, third, that the agreement was that the money was delivered to Mr. Balloch with which to pay them off and that he failed to do it?

A. I do not remember.

Q. Which of these three theories of facts is the correct one?

A. I do not remember even making any such statement as that last theory. There was no agreement in the legal sense of the term as to how these incumbrances should be paid off in fact. I

449 paid Mr. Balloch a sum of money and retained some which I paid towards incumbrances.

Q. Then you never gave Mr. Balloch any money for the purpose of paying off these incumbrances?

A. I do not remember that I ever did.

Q. This application for this loan of Mr. Terry in writing, was it or was it not transmitted by you to the home company?

A. I am not certain, but I think it was not.

Q. Upon what then did the company act?

A. Upon my letter stating the substance of that application, and a visit to the premises by their vice-president, Mr. Fuller.

Q. Was that all?

A. All I now remember.

Q. Have you filed with your testimony in this case or in any of the papers in the case this application of Mr. Terry's for this loan?

A. I do not remember that I have.

Q. How long after the forwarding of the Terry letter or sub-

450 stance of it to the company that you first saw Balloch in relation to the loan?

(Objected to because a repetition of a previous question which had been answered.)

A. I do not remember seeing Mr. Balloch until the first installment on this loan came from the home office at Springfield.

Q. Then, up to the receipt of the first money, the whole transaction had been between you and Terry?

A. I don't remember seeing Balloch.

(Question repeated.)

A. As I remember the transaction, it was wholly done with Terry.

Q. Have you heretofore testified that the final application and transaction in relation to this first loan was made between yourself and Balloch, and that you forwarded Balloch's application, being the only written application, to the company?

A. I do not remember so testifying.

Q. What was the condition of the improvement at the time you made this loan of $16,000?

A. The two most northern houses which I was verbally told were to be given as security were roofed in, and, I think, being
451 plastered at the time of the loan; the next two or three houses not so far advanced; the next two or three to the best of my memory had not the roof on.

Q. Is it not true in fact that the two north houses had the roofs on, but were not trimmed out, and that the other six houses simply had the walls up and were not enclosed, and part of them the walls were not more than one story high?

A. No; it is not true, in fact, as I remember it.

Q. Can you give us a more accurate description of those houses than you have given and point out where my question is at fault?

A. I cannot.

Q. What is your estimate of the value of those houses on which the least amount of work had been done?

(Objected to as immaterial.)

A. I cannot tell.

Q. Is it your judgement and was it then that the houses and lots on which the least amount of work had been done were worth $2,000.00 each above the incumbrance known by you to have
452 existed at the time?

(Same objection.)

A. It was not.

Q. Were they worth $2,000.00 each, regardless of the incumbrances?

A. I thought they were worth $2,000.00 each if there were no incumbrances on them.

Q. What did you estimate the value of the ground to be worth?

A. I did not estimate it. Mr. Sturtevant estimated it.

Q. What did you estimate the value of the improvements?

A. I estimated improvements and lots as worth more than $2,000.00 when there were no incumbrances on them.

Q. Was it or was it not true in fact that the lot, being 16 feet

front by 100 deep, was worth perhaps $500.00 and the improvements then made worth not to exceed $500.00 more?

A. I should think there was none of the eight northern lots where the improvements would not be more than $500.00.

453 Q. Then, Mr. Hooper, if the improvements, being brick walls, perhaps a story high, were worth a good deal more than $500.00, what is your estimated value of the completed house and lot?

(Objected to as immaterial, as well as the previous questions concerning the witness' estimate of the value of these lots and improvements.)

A. I never said that a building one story high was worth a good deal more than $500.00.

Adjourned to meet at same place Tuesday, September 27th, 1884, at 2 o'clock p. m.

454 WASHINGTON, D. C., *September 27th*, 1884—2 p. m.

Met pursuant to adjournment.

Present: Messrs. Edwards & Barnard, solicitors for the defendants, and Mr. H. B. Moulton, solicitor for complainant, and Mr. Seth A. Terry.

Whereupon the witness WILLIAM R. HOOPER wished to make the following correction in his testimony:

Referring to my testimony given at the last session, I desire to say that since then I have examined my insurance papers, but do not find any appointment therein (and I remember that the only appointment was an agreement executed in duplicate by which I was to collect certain premiums for the company and they were to pay me a certain percentage therefor), and I further desire to say that my last answers to the questions of the counsel for the complainant were based on the idea that he was asking me concerning the houses shown to me by Mr. Terry as security for the loans of $16,000, which I have since ascertained not to be the houses standing on the
455 lots included in the deeds of trust given as security for that loan.

Cross-examination resumed.

By Mr. MOULTON:

Q. Mr. Hooper, as I understand your statement just made you are unable to produce your letter of appointment as the agent of the company?

A. I am.

Q. As I understand your previous testimony, during the time covered by the Balloch transactions you were in the employ of the defendant insurance company?

A. I was.

Q. And they paid you a compensation mutually agreed upon between yourself and the company?

A. They did.

Q. In your examination-in-chief you produced a statement on account, which was filed and marked "Defendants' Exhibit No. 2." State whether or not that is an account disclosing the moneys received and disbursed by you on account of the Balloch transactions involved in this suit.

A. It was.

456 Q. Is that a correct account?

A. It is, to the best of my judgement.

Q. From what source did you obtain the items and figures presented in this account?

A. From original entries made by me at the time of each transaction.

Q. Original entries in what?

A. On pieces of paper.

Q. Where are those pieces of paper?

A. I suppose they are at my house.

Q. You can produce them if they are desired?

A. I can produce them if it is necessary.

Q. You also presented and filed during your testimony-in-chief a statement or account, which is marked "Defendants' Exhibit No. 4," purporting, as I understand it, to disclose the figures made by yourself and Mr. Terry relating to these disbursements. Am I correct in this?

A. I prefer to see that exhibit.

The exhibit being shown witness, he says:

It is correct as to the first loans of $16,000.

457 Q. The right-hand column of this statement disclosing your figures and the left-hand column disclosing the Terry figures?

A. Yes, sir.

Q. And this paper is in your handwriting?

A. Yes, sir.

Q. From what source did you obtain the figures that you have entered therein?

A. From the original entries on pieces of paper.

Q. And from what source did you obtain the figures purporting to be Mr. Terry's figures?

A. From a paper brought to me by Mr. Terry.

Q. When was this paper brought to you by Mr. Terry?

A. When we found that there was a slight difference between us.

Q. Can you approximate the date?

A. Not far from December 1st, 1879, I think.

458 Q. Then it is possible, Mr. Hooper, that Mr. Terry could, on or about December 1st, 1879, have given you figures amounting to several hundreds of dollars relating to disbursements not made until months thereafter?

(Objected to because the question assumes it to be a fact that the witness has so testified, and counsel is requested to show where the witness' deposition so states.)

(Counsel for the complainant suggests that he is speaking from the facts and figures and dates included in the exhibit that Mr. Hooper has just examined, and in relation to which he is now testifying, and which he has already said was correct.)

A. If that is the fact I must have made a mistake as to the date.

Q. Mr. Hooper, please re-examine this exhibit marked "Defendants' Exhibit No. 4" and state whether or not there does not appear on it, under date of January 1st, 1880, a disbursement of $638.76 and another of March 2nd of $5.50; another of March 2nd of $254.50; another of March 18th of $35.00; another of March 11th, 1880, of $1,209.00; of same date, $1.75; March 22nd, 1880, $100.00; examiner, 80 cts.; March 24th, 1880, $185.00.

459 A. Those items were all made after Mr. Terry handed me the paper.

Q. By whom?

A. By me.

Q. Then those items were not obtained from Mr. Terry?

A. They were not at the time the others were.

Q. Do you wish to be understood by that answer that you ever obtained them from Mr. Terry?

A. It is my opinion that I spoke to Mr. Terry or Mr. Balloch about all of them, but I am not certain.

Q. Then when you stated in the beginning that this account discloses a correct statement of the figures given to you by Mr. Terry you may have been mistaken?

(Objected to because the witness has not so testified, to which counsel's attention is again called, the witness in the examination-in-chief having confined his testimony in respect to the comparison with Terry up to a certain period in that paper.)

A. The statement discloses figures given to me by Mr. Terry up to that date, December 1st, 1879.

460 Q. Did you not state in the beginning of your cross-examination this afternoon, without any limitation, that this paper represented, in the right-hand column, the figures made by yourself, and, in the left-hand column, the figures given you by Mr. Terry, and that it was a correct statement of the figures this obtained?

A. When the paper was handed me I only looked at the first and second pages and had forgotten the exact time when Mr. Terry handed me the paper. It has since been brought to my mind by the cross-examination.

Q. Do you wish to be understood by that answer that Mr. Terry ever handed you the paper that is here presented as "Defendants' Exhibits No. 4"?

A. No; this is all in my handwriting.

Q. As I recollect your testimony, Mr. Hooper, you say the first half of the $16,000 loan was paid, less a certain deduction, at the time of the passage of the paper or thereabout?

(Counsel for the defendant objects to the style and manner
461 of this cross-examination. Most of the questions preface with counsel's understanding of what the testimony is, when he has the same before him and is able to call the witness' attention to just what he has, in fact, testified to, and the question is objected to.)

A. I think I said that it was paid shortly after.

Q. The first of this Exhibit No. 2 discloses the claimed deductions made by the company from the several loans, does it not?

A. Yes; I suppose so.

Q. And on June 4, 1879, the company deducted $581.50 from the first half of the $16,000 loan?

A. It appears so from this paper marked Exhibit No. 2.

Q. That is the paper prepared by yourself?

A. It is.

Q. State whether or not that was deducted for interest on the loans made on what was known as the 13th-street houses.

A. I do not know.

462 Q. Have you any means of determining?

A. None short of writing to the company.

Q. Did you or the company at that time hold any notes of Mr. Balloch's other than those secured on the 13th-street property?

A. I never held any notes of Mr. Balloch. I cannot answer for the company.

Q. Do you mean by that that you do not know whether it was deducted by the company on account of the interest on the loans secured on the 13th-street property?

A. I do not know.

Q. Mr. Hooper, I find that Mr. Bond, the president of the company, has filed with his testimony a letter from you, dated Washington, D. C., June 2nd, 1879, containing the following sentence: "I now enclose eight notes of $2,000 each, dated June 4th, the date of which I suppose the money will be sent from Springfield. From the $8,000 to be advanced thereon you will please deduct $465.60, being $450 due from Balloch for interest due January 1st and $15.20 for interest at 8 per cent. from January 1st and June 4th, leaving $7,534.80 to be sent to me." Can you not now state, after
463 my calling your attention to this paragraph taken from your own letter, whether or not the deduction of $581.50 from the first half of the $16,000 loan was not on account of interest on the 13th-street houses?

A. I cannot state positively. I think it very likely.

Q. Will you look at Exhibit No. 4, at the second and third items on the first page, and state what amount of interest is disclosed by your figures there as being due on account of the loans on the 13th-street houses?

A. $7.50 and $12.50.

Q. Do your figures there agree with the figures of Mr. Terry as disclosed in that paper?

A. The figures do.

Q. In your letter of June 2nd, 1879 (to which reference has been made), to the company you direct them to deduct the interest due by Balloch on January 1st, 1879, amounting to $581.50, as claimed by your figures. State whether or not you had not prior to the date of this letter received from Mr. Balloch this very interest in two instalments, one of $100, to wit, March 13, 1879, and one of $450, January 31, 1879, derived from Mr. Erichorn.

464 A. I have no recollection of such receipt and do not think the money was ever paid to me as stated in the question.

Q. Look at the paper I now hand you and state whether or not your signature is attached thereto.

A. That is my signature.

Q. Is not that a receipt for $100, dated March 13, 1879, on account of interest in favor of Mr. Balloch?

(Objected to because the paper shows for itself and required no parol testimony.)

A. It appears to be.

(Counsel for complainant offers said paper in evidence, and it is marked Exhibit O. N. No. 1.)

Q. Will you examine your account, Exhibit No. 2, and state whether or not you have charged yourself anywhere therein with the $100 disclosed by the receipt or the $450.00, to which I have called your attention? And, if so, please point it out.

A. I do not see any such charge.

Q. If you received this money as suggested, then the deduction made by the company would be erroneous, would it not?

465 A. I think it would not, because that payment was probably made for interest due prior to January 1st.

Q. If it was made in settlement of interest due January 1st, 1879, as indicated by my questions and the receipt, would not the deduction made by the company from the loan in that event be erroneous?

A. I think not, because in that case Mr. Terry and Mr. Balloch would not have admitted the justice of those charges.

Q. Please examine Exhibit No. 4, which you say contains the figures given you by Mr. Terry, and point out the place where he admits the justice of this charge.

(Objected to because the answer of the witness is not confined to an admission by Ballock or Terry appearing in any paper.)

A. Exhibit No. 4 contains a statement of expenditures made by me and does not include statement of deduction made by the company.

Q. In your previous testimony you have stated that the left-hand column of Exhibit No. 4 was a correct copy or state-

466 ment of the figures furnished you by Mr. Terry to which you are entitled to credits, and in your last answer to my question you said that the $581.50 would not have been allowed by Mr. Terry if it had not been correct. I now ask you to point out in the

column of figures which you say is a correct statement of the figures given by Mr. Terry where he allowed the correctness of this deduction or where that item appears.

A. Exhibit No. 4 does not purport to contain the dealings between Mr. Balloch and the company, and therefore does not include the $581.50.

Adjourned to meet at same place on Monday, September 29th, 1884, at 2.30 p. m.

OSCAR NAUCK, *Examiner.*

467 WASHINGTON, D. C., *September 29th*, 1884—2.30 p. m.

Met pursuant to adjournment.

Present: Messrs. Edwards & Barnard, solicitors for the defendants; Mr. H. B. Moulton, solicitor for the complainant; Mr. Seth A. Terry, and the witness, Mr. William R. Hooper.

The short-hand notes of the examiner taken at the last session not being wholly written out, at the request of the counsel for complainant the session is further adjourned till Wednesday, October 1st, 1884, at 2 o'clock p. m., and same place.

OSCAR NAUCK, *Examiner.*

468 WASHINGTON, D. C., *October 1st*, 1884—2 p. m.

Met pursuant to adjournment.

Present: Messrs. Edwards & Barnard, for the defendants; Mr. H. B. Moulton, counsel for the complainant, and Mr. Seth A. Terry.

Whereupon the cross-examination of the witness, WILLIAM R. HOOPER, was resumed.

By Mr. MOULTON:

Q. I find on page 4 of your testimony-in-chief that you say the first half of the first loan, the $8,000.00, was to be paid to you about June 4th, less Mr. Balloch's indebtedness to the company, for interest on previous loans to Mr. Balloch on what is known at the 13th and Q street property. In your testimony at the last session, in the cross-examination, you said that you did not know whether the deduction of the $581.50 by the company from the first half of the first loan was on account of interest on the 13th and Q street property or not. Please explain why, if you knew in your examination-in-chief that it was on account of the 13th-street property, you do not know it now on your cross-examination.

469 A. I think it was on account of interest on the 13th-street property, but am not sure.

Q. Mr. Hooper, in your letter to the company of June 2nd, 1879, to which your attention has already been called, you direct the company to deduct on account of interest the sum of $465.20, whereas in the statement filed by you the company appears to have deducted $581.50. Will you explain the difference in these charges?

A. I cannot.

Q. Which of these amounts do you now believe to be correct, and why?

A. I believe the latter amount to be correct, both because the company made it and because Mr. Balloch assented to it.

Q. Have you any statement or figures from Mr. Balloch showing his assent to that charge? And, if so, please produce it.

A. It was assented to by his indorsement of the check sent to me as correct and by his statement to me at the time.

Q. Do you mean by his indorsement of the check his writing his name on the back of the check?

A. I do.

470 Q. Is it not in point of fact true, Mr. Hooper, that the check for the first half of the $16,000 loan was payable to your own order and was not indorsed by Mr. Balloch at all?

(The witness, referring to exhibit attached to Mr. E. W. Bond's deposition:)

A. No, sir; it is payable to Robert A. Balloch, and he indorsed it, and I find his name on that draft.

Q. Is not the draft to which you referred payable to the order of C. H. Churchill?

(Objected to, as the exhibit will show for itself.)

A. It is first payable to Churchill, then to Bond, and then to Balloch.

Q. When Mr. Balloch placed his name on the draft did he receive any money on account thereof; and, if so, how much?

A. He did not that day.

Q. Is it not in fact true that when the money was drawn on the draft which you have just examined it was drawn and received by yourself and not by Mr. Balloch?

471 A. I deposited it that day and did not draw any money on its account. The next day I drew $4,820 on Mr. Balloch's account.

Q. Where did you deposit this draft?

A. In the Second National Bank of Washington.

Q. Did you deposit all of the drafts received by you on account of these loans of Mr. Balloch in the same bank?

A. I did.

Q. And from time to time as you needed money drew it out on check?

A. I did.

Q. Exhibit No. 2 discloses the receipt of the second half of this $16,000 loan, does it not?

A. It does.

Q. What amount did you receive on that?

A. $7,200.00.

Q. What deduction was made by the company from that payment?

A. $800.00.

Q. On account of what?

A. On account of a house purchased by Mr. Balloch of the company.

Q. Was it not deducted on account of two houses known
472 as the Archer houses, on Massachusetts avenue?

A. Very probable it may have been. I cannot tell.

Q. Attached to the deposition of Mr. Bond I find a letter from him dated July 9, 1879, directed to yourself, in which the following sentence appears: "We hand you herewith a New York draft to your order for $7,200, this being for the remaining $8,000 due on loan to R. A. Balloch, from which we have deducted $800 to be applied to the purchase of the two Archer houses by him." In view of this letter are you now able to state on account of what this $800 was deducted?

A. I have no doubt it was deducted on account of the two Archer houses.

Q. Is it not a fact that one of these Archer houses had a defective and imperfect title?

A. So Mr. Terry has told me.

Q. Is that the only source of information on that subject?

A. That is.

Q. Is it not true that both of these houses together with all of Mr. Balloch's interest in them have long since been conveyed to you for the benefit of the company and does not the company and
473 yourself now hold both of the houses and the money deducted from this loan of Mr. Balloch's?

A. No, sir; they were not conveyed to me for the benefit of the company. The company still owns the corner house. It does not own the other.

Q. What has been done with the other house?

A. It was mortgaged to Mr. Mayse.

Q. And who owns it?

A. The last I knew of it it was owned by Mr. Mayse.

Q. Is it not a fact, Mr. Hooper, that you yourself conveyed that house to Mr. Mayse?

A. It is not.

Q. On page 6 or 7 of your deposition, speaking of the sale of these two Archer houses, you say that one of these deeds drawn up, I think, by Brainard H. Warner, did not include the right of sale or default of payment of interest, but only on default of payment of note, and that therefore there was a defect in title for selling before the note matured. Is that correct?

A. I do not know. I have been told so by Mr. Terry, but
474 I have never examined the record.

Q. Did not Mr. Terry show you Mr. Ward's abstract of title disclosing that defect?

A. He did not, to my remembrance.

Q. Since the last session have you been able to call to mind the payment to you by Mr. Balloch of $450.00 derived from Mr. Eichorn, the purchaser of one of the houses?

A. I have not, but hope to before the next session.

Q. Do you remember about when the houses were sold to Mr. Eichorn?

A. I do not.

Q. Was it about January 31st, 1884?

A. I do not know.

Q. The first half of the second loan, I find from your statement, "Exhibit No. 2," was paid on the 17th of October, 1879. What deduction was made from that loan by the company and on account of what?

A. $578.26 was deducted by the company for interest due, and $416.66 was deducted for house or houses sold.

Q. Do you know on account of what property this interest, $578.26, was deducted?

475 A. I do not.

Q. Look on the second page of "Exhibit No. 2," at the bottom of the page, and see if you do not find $337.50 for interest due on the same date, again deducted.

A. I find a charge for interest of $337.50.

Q. Well, what was that for and on account of what houses?

A. I cannot tell.

Q. Now do you remember having received on account of this same item of interest the sum of $225.00 from Mr. Eichorn?

A. I do not.

Q. Will you say that you did not receive it from Mr. Eichorn?

A. I will not.

Q. Look in your statement and see if you find any such item or amount charged in your account as having been received from Mr. Eichorn.

A. I find no such statement, nor would it have been put in this account if Mr. Eichorn paid it to me.

Q. Why would it not have gone into your account, the company having previously taken out the interest on account of the Eichorn houses?

476 A. The company did not take out the interest on account of the Eichorn houses.

Q. How do you know, Mr. Hooper, that the $578.26 deducted by the company does not include the interest on the Eichorn houses if you do not know what items make up the deduction of $578.26?

A. Because the Eichorn houses were never included in the account between me and Balloch after the transfer of the houses to him from Balloch.

Q. Do you know when the houses were transferred from Mr. Balloch to Mr. Eichorn?

A. I do not.

Q. Do you know that it is prior to October 17, 1879?

A. I do not.

Q. Then if you do not know that the houses were transferred to Eichorn prior to that time, how do you know that that item does not include interest on account of the Eichorn houses?

A. Because I find a charge of interest to Balloch which
477 would be the interest on the other three houses under date of

July 7th. I have no doubt that it is the interest on the other three not conveyed to Eichorn.

Q. Then, sir, if the interest on the other three houses is included in the item of $337.50 on the second page, why did the company deduct it in the sum of $578.26 on the first page?

A. It is my opinion that the $578.26 did not apply to the Eichorn houses.

Q. Did the company at this time, July 1st, 1879, hold any loans of Mr. Balloch other than the loans on the five houses, two of which were transferred subsequently to Mr. Eichorn?

A. They did; they had loans to the amount of $16,000—made in the previous June.

Q. I do not intend by my question to refer to the $16,000 loan, because the interest on that would not fall due until the following November, but to any other loans of his held by the company.

A. I do not now remember of any other loans.

478 Q. Then, sir, if the company, on the 17th of October, 1879, deducted $578.26, the full amount of the interest due on the whole five houses, and you, on the second page of your account, again deducted the interest on three of these houses, to wit, $337.50, would not that be a double deduction of the same funds?

A. No, sir; for I do not think that the deduction of $578.26 had anything to do with the Eichorn houses.

Q. To what did it relate?

A. As a matter of opinion I think it related to the loan of $16,000 from which the company, with Balloch's consent, previously given, deducted interest due November 1st, allowing him interest on the payment between October 17th and November 1st.

Q. In a letter from Mr. Bond directed to yourself, dated October 17th, 1879, I find this statement relating to the payment of the first half of the second loan, to wit: "Less a payment for interest due this company July 1st, 1879, and interest on interest, $578.26." In the light of this statement contained in Mr. Bond's letter to yourself is your testimony just previously given correct?

479 (Objected to because counsel does not read the whole sentence from which the quotation is taken.)

A. Not strictly correct.

Q. Another deduction on the first page of "Exhibit No. 2," under the same date, is $416.66, deducted for houses sold. To what houses does that refer?

A. I cannot tell.

Q. I find in Mr. Bond's letter, to which I have just called your attention and from which I have just quoted, the following statement, to wit: "Less a payment of $400.00 on account of Archer houses, and interest, $416.66. In the light of that statement can you state to what houses that deduction applied?

A. I should presume it applied to the Archer house or houses.

Q. Is it not in fact true that you have and had absolute knowl-

edge of the whole of these transactions and deductions in relation to the Balloch loans?

A. I had five years ago.

Q. Then, if this $416.66 is deducted on account of the Archer houses, one-half of it at least applies to the house that it is
480 claimed there was an imperfect and defective title, does it not?

A. I cannot tell.

Q. Why can't you tell?

A. Because I do not remember.

Q. Did Mr. Balloch ever have anything to do with any other two Archer houses?

A. I do not remember that he did.

Q. Mr. Hooper, on December 24th I see the company deducted from the second half of the second loan $646.42. Can you tell me what that was for?

A. I cannot.

Q. At that time had all of the money which had been loaned to Mr. Balloch, to wit, the $16,000.00 loan and the $10,200.00 loan, been paid over to him; and, if so, how long previous to this time, to wit, December 24th, 1879?

A. It had not.

Q. Does not that item of deduction made by the company include the interest on the entire $16,000; also on the $10,200.00 loan; also on the two Archer houses—the one with the good title and the one with the defective title—up to November 1st, 1879, and interest on interest on those amounts from November 1st to December 24th, 1879?

481 A. It includes the interest on the loans, and I presume it includes interest on interest, but I do not know.

Q. What deduction was made by the company from the first payment on account of the third loan?

A. $750.00.

Q. And on account of what was that deduction made?

A. On account of the Howard house, so called.

Q. Was not that house, in a few days after this date, conveyed to you by Mr. Balloch?

A. It was.

Q. What deduction was made by the company from the last payment of the third loan, and on account of what was it made?

A. $1,412.35 for interest on the $16,000 loan, on the $10,200 loan, and on the Archer houses, and on the $9,000, and on the Howard house.

Q. Up to what time?

A. Up to May 1st, 1880.

Q. This include the Archer house, where this defective title was?

A. It included both the Archer houses.

482 Q. Did it include the Howard house, which had been previously conveyed to you?

A. It included the Howard house.

Q. And at this time and months previous two of these houses and

property had been conveyed to yourself for the use of the company and either held by you or the company if not conveyed at the time of this charge?

(Objected to because it assumes to state conclusions of law of the counsel for the complainant in this: that he asserts that the witness held this property for the use of the company and that it intimates as facts statements which do not appear in the testimony and because incompetent.)

A. The houses were never conveyed to me for the use of the company. They were held by me in my own right at the time here spoken of.

Q. And for how long had you so held them?

A. Since Balloch's conveyance to me.

Q. As I understand your previous answer, this deduction by the company of $1,412.35 on April 15, 1880, included all interest
483 due by Mr. Balloch to May 1st, 1880, does it not?

A. It includes all interest on these loans on the 16th and S street property, the Archer houses, and the Howard house.

Q. Now, will you refer to the 7th page of your Exhibit No. 2, under the same date, to wit, April 15, 1880, and state what items under the head of interest made up the charges therein of $1,412.35 which is identical in date and amount with the deduction on the first page made by the company?

A. I cannot tell.

Q. If it is a disbursement made by yourself why can you not tell?

A. Because of the lapse of years since then.

Q. Is it not a duplicate of the deduction made on the first page by the company?

A. I cannot tell; it may be.

Q. What is your best judgement as you now examine them?

A. My guess would be that it is the same.

Q. Mr. Hooper, will you look at Exhibit No. 5 and state what that exhibit represents?

484 A. It represents the rent account of the houses conveyed to me by Balach.

Q. It is what you termed a net statement or a statement of the net rents, is it not?

A. I should say not. I should say it was a gross statement.

Q. I see the second item on this account which purports to be rent of Howard house under date of May 1st, 1880; interest, $53.96. State whether or not that is not identical with one item included in the deduction of $1,412.35 by the company.

A. I cannot tell, but I presume not.

Q. Have you examined and compared the two?

A. I have not.

Q. Will you please examine and then state?

A. It may be.

Q. You see that Mr. Bond's statement of this deduction of $1,412.35 recites that $53.96 is interest on the Howard house, and your statement deducting the same amount under the same date

also recites that it is on account of interest on the Howard house. Is it not certain that it is the same item?

A. I think it probably is.

485 Q. Then that is included in the $1,412.35 deducted by the company and in the $1,412.35 deducted by you on the 7th page of "Exhibit No. 2" and again deducted in your rent account, as shown by "Exhibit No. 5." Does not that make a triplicate charge of the same item against Mr. Balloch?

A. I should think it did.

Q. Now, if you will look at your rent accounts you will find a charge of interest under date of May 1st, 1880, on account of the Archer house of $110.40. If you will refer to the deduction made by the company of the $1,412.35 under the same date and on account of the same house you will find again the charge of $110.40. Are not these items identical?

A. I should think they were.

Q. Then if these items are charged in all three of these accounts it would make a triplicate charge against Mr. Balloch, would it not?

A. Yes; I should think it would.

Q. And a duplicate charge as to the whole $1,412.35?

A. I think so.

486 Adjourned to meet at same place on October 3rd. 1884, at 7 o'clock p. m.

OSCAR NAUCK, *Examiner.*

WASHINGTON, D. C., *October 3rd*, 1884—7 p. m.

Met pursuant to adjournment.

Present: Messrs. Edwards & Barnard, for the defendants; Mr. H. B. Moulton, for the complainant, and Mr. Seth A. Terry.

Whereupon the cross-examination of WILLIAM R. HOOPER was resumed.

By Mr. MOULTON:

Q. At the time, Mr. Hooper, of the deduction of this $1,412.35, to wit, April 15, 1880, is it not true that you and the company, jointly or otherwise, held all of the unexpended balances of the loans made by the company to Balloch, as well as all of the property covered by the three Balloch loans, together with the Archer houses, the Howard house, and six or eight unimproved lots on the square bounded in part by 16th and S streets northwest,

487 upon which the company or yourself had previously had no claim?

A. No money was ever withheld by the company and myself jointly. This $1,412.35 was withheld by the company and not by me. All the property conveyed in the deed of Balloch to me I held. The unexpended balance I held.

Q. This Balloch deed, as I understand, included the six or eight unimproved lots upon which the company and yourself had previously had no claim?

A. It did.

Q. For whose benefit did you hold all of this real estate?
A. For the benefit of myself.
Q. What consideration emanating from yourself did you at the time of the conveyance give for it?
A. Nothing in money. I took all the risk of the enterprise.
Q. Have you ever given anything in money or any kind of property; and, if so, when, how much, and, if property, what kind?
A. Nothing.

Q. On the second page of your general account, on the 6th
488 of June, 1879, there is an entry of cash of $400.00. Will you please explain to whom that was paid?

A. I cannot explain it. I have been told since this suit was commenced it was for commission, but it has escaped my memory.
Q. Who told you since this suit commenced?
A. I cannot tell you. I am not sure. I asked Mr. Terry in this room or how I got it, but do not recollect now.
Q. It is one of your charges?
A. It is one of my charges.
Q. Have you a voucher for it?
A. I cannot tell you from memory.
Q. Have you a voucher for all of these disbursements?
A. No; I do not suppose I have.
Q. In cases where you have no vouchers how did you obtain your information in relation to them?
A. From original entries.
Q. Have you original entries covering all of these disbursements?
A. Every one of them, I think.
Q. Will you produce them at the next session?
A. Yes.

489 (Counsel for complainant requests the witness to produce them at the next session.)

Q. On June 6th, same date, in your account you will find charge against Mr. Balloch of $12.50 for insurance. State whether that is not identical with a charge for insurance on the 7th, the following day.
A. It is not.
Q. State to what property the first charge relates.
A. I do not know.
Q. On the second.
A. I do not know.
Q. And yet you are unable to say they are not identical?
A. I do.
Q. On June 10th, in the same account, you charge Mr. Balloch with the payment to J. D. Kitch of $702.00. State whether or not you paid that upon an order of Mr. Balloch or how.
A. I think I took up a note of Balloch's to Kitch for $700.00 and $2.00 costs of protest.

Q. Did not Mr. Balloch give Kitch an order on you for
490 $700.00, which order you failed to pay in money, but settled

by your promissory note for thirty days, and the protest of $2.00 here charged is a protest of your note?

A. I cannot remember.

Q. Will you look on your account, under date of July 7th, 1879, Mr. Hooper, and state what the charge of $20.00 entered as cash was for?

A. It was for cash.

Q. Is not that and the item in the line preceding *line* a charge of $20.00 for the same thing?

A. It is not.

Q. You stated that the figures on "Exhibit No. 4" made by yourself and those which you claim were given you by Mr. Terry were correct, did you not?

A. I did.

Q. Look on that account, under date of July 7th, and state whether or not you find it there.

A. I do not.

Q. Can you explain why it is omitted there and on your other account?

A. I cannot.

Q. This "Exhibit No. 4" is made from your original entries on slips of paper, is it not, so far as your figures go?

491 A. It is.

Q. And there is no way you can explain this difference in the two accounts in the matter of this item?

A. I do not know.

Q. Under the same date, July 7, 1879, you have an entry of interest, $337.50; that is a charge for interest on the three of the 13th-street houses, is it not?

A. My opinion is that it is.

Q. Was not this interest due July 1st, 1879?

A. I presume it was.

Q. Did not the company on October 17, 1879, deduct $578.26 interest due July 1st, 1879, on these three houses and the other two, making the whole five 13th-street houses?

A. They appear to have.

Q. Then is not that a double charge against Mr. Balloch of this amount?

A. I rather think it was.

Q. Look at your account, at July 22, 1879, and see if you do not find entered there two orders to F. H. Smith, one for $45.00 and one for $26.38, making a total of $71.38.

A. I do.

Q. Now look under date of August 14th, just below, and

492 see if you do not find entered to F. H. Smith the sum of $71.28.

A. I do.

Q. Are not these charges identical?

A. I do not know.

Q. Do you not know that July 22, 1879, was the date when Mr.

Balloch gave the orders and August 14th, 1879, the date when you paid them?

A. I do not.

Q. Do you know that that is the—not the fact?

A. I do not.

Q. Have you any way of determining whether I am correct about this or not?

A. I can ask Mr. Smith to see if Mr. Smith can show, or I can look up my own papers.

Q. What was your habit, in keeping your accounts with Mr. Balloch, in the matter of charging an order he gave upon you in favor of some other person? At what time and when would you charge Mr. Balloch with that order?

A. I should suppose I charged it when I accepted it.

Q. Have you any distinct recollection as to what your habit and practic- was?

493 A. No.

Q. Then, if you charged it when you accepted it, what entry or record was made by you at the time you paid it?

A. I should not make any.

Q. Have you any recollection as to whether you did or did not make any?

A. I have not.

Q. Look on your account, August 9, 1879, at an entry of insurance, $20.00. State upon what property that insurance was placed.

A. If my memory is correct, that was for insurance which Robert A. Balloch had obtained from George W. Balloch and had not paid him for, and George W. Ballock asked me if I would consent to pay it, and I said if Robert A. Ballock consented I would, and I did. I do not know on what property it was.

Q. Look on the second line below and see if you do not find an entry there of $20.00.

A. I do.

Q. State upon what property that was and whether or not it is not identical with the entry to which you have just

494 referred.

A. I do not know on what property it was. I do not think it is identical with the one just above.

Q. Look on your account a couple of lines below, under date of August 17, 1879, and explain a charge that you will find there against Mr. Balloch of $1,000.

A. I am not certain, but I think it was $1,000 paid to Mr. Albright.

Q. Why did you pay $1,000 to Mr. Albright and what for?

A. On Mr. Balloch's note secured on these lots; because he held Mr. Balloch's notes secured on these lots.

Q. Do you mean that you paid a $1,000.00 note of Mr. Balloch's held by Mr. Albright?

A. I do not know.

Q. Have you such note in your possession now or have you ever had; and, if so, will you produce it?

A. If I have it I will produce it.

Q. Will you look on your account, "Exhibit No. 4," and point out this charge of $1,000 against Mr. Balloch?

A. I do not see it.

495 Q. If you had made such a payment ought it not to appear in that account?

A. I should rather think so.

Q. Did you ever, at any time, Mr. Hooper, make a loan yourself to Mr. Albright of $1,000.00, taking collateral security therefor?

A. Never.

Q. Have you any distinct recollection of ever paying Mr. Albright $1,000 for Robert A. Balloch?

A. My impression is I did.

Q. Can you state from your knowledge or even from your impression where and when you made such payments to Mr. Albright?

A. In his office, corner of 9th and F.

—. Now, Mr. Hooper, is it not in fact true that on the 17th day of August, 1879, you loaned Mr. Albright $1,000 and took a promissory note of Robert A. Balloch's for $2,000, secured by deed of trust on real estate as collateral security therefor?

A. I do not think I did.

Q. How many transactions have you had with Mr. Albright in relation to this property?

496 A. I do not remember any other except the payment of $1,000 to him.

Q. And that was the note of Mr. Balloch's?

A. And that was on a note of Mr. Balloch's.

Q. Now, will you look in your account under date of December 27, 1879, and see if you do not charge Mr. Balloch with a payment to Mr. Albright of $2,141.37, and is not that the total of all money that you ever paid Mr. Albright on account of Mr. Balloch?

A. I find that charge of $2,141.37 as money paid to Mr. Albright. I cannot say that that is the only transaction I ever had with him, nor can I say it included that $1,000.

Q. Did you not state in your answer preceding that just closed that you had had but one transaction with Mr. Albright in relation to Mr. Balloch's matters?

A. I do not think I so stated.

Q. Where did you pay Mr. Albright this $2,141.37?

A. I do not recollect, but I presume at his office, corner 9th street and F.

497 Q. Do you absolutely remember paying either of these sums to Mr. Albright?

A. I remember paying the moneys on the notes signed by Balloch.

Q. How many notes of Mr. Balloch's did he hold so far as you have any knowledge?

A. I never knew.

Q. Do you remember ever seeing any more than one?

A. I do not.

Q. Have you now any recollection of loaning Mr. Albright the $1,000 to which I have previously called your attention?

A. I have not the slightest recollection of ever loaning him a cent.

Q. Have you the slightest recollection of paying him on the 17th of August, 1879, $1,000?

A. It is impossible for me to recollect dates five years ago.

Q. Have you the slightest recollection of paying him at any time $1,000?

A. I do not know for what sums I gave him checks.

Q. Did you settle the amount due Mr. Albright by one payment or how?

498 A. I do not recollect.

Q. Then, as I understand you, you have no distinct recollection about this Albright business?

A. I have not.

Q. Look at your account under date of September 8, 1879, where you will find a charge against Mr. Balloch of $422.16 to one Edmonston. Will you state what that was for?

A. If I remember aright, that was to enable Balloch to get a clear title to the property he had mortgaged to the company, and I think that prior charge of $1,000 August 17 may refer to that very property, but I cannot recollect.

Q. Look on your account, "Exhibit 4," and point out this charge of $422.16, if you please.

A. I do not see it.

Q. If you made the payment ought it not to be there?

A. No, sir; I think it is on one of the other accounts.

Q. Have you any other accounts of your disbursements than the two filed here, marked Exhibit- Nos. 2 and 4, down to Octo-

499 ber 17, 1879, and does not Exhibit No. 4 include every payment made by you down to October 17th, 1879?

A. I cannot tell without refreshing my memory by looking at my original entries.

Q. You say your original entries are on slips of paper, do you not?

A. I do.

Q. And not in the shape of a stated account at all?

A. They are not in the shape of a stated account.

Q. Then why should not this item of $422.16 made on September 8, 1879, appear in Exhibit 4 filed by you?

A. Because Exhibit 4 only applied to the $16,000 loan and not to the other two loans.

Q. The second loan, Mr. Hooper, was made October 17, 1879. Look on your account, Exhibit 4, and state whether or not that does not run down to March 24, 1880—long after the second loan was made.

A. It does.

Q. And does it not include disbursements made on account of the second?

A. It does not.

500 Q. Out of which loan was the $1,209—payment of March 11, 1880, to M. Eastwood—made and for what purpose?

A. I cannot tell out of which loan it was made. The purpose was to pay off a mortgage given by Balloch on some of these houses, on which he had also given security to the company.

Q. This Eastwood payment is found in Exhibit No. 4, is it?

A. Yes.

Q. And if you are unable to state out of which loan that payment was made, how are you able to say that Exhibit No. 4 includes only payments made on account of the $16,000 loan?

A. I can now say that that payment to Eastwood was taken out of the $16,000, since you have refreshed my memory by showing me the charge.

Q. What kind of a voucher, if any, did you receive for this payment of $422.16, claimed to have been made to Mr. Edmonston September 8, 1879?

A. He gave me a very guarded receipt that if my check was paid the next day a deed of trust to secure that sum was to be considered released.

501 Q. Then I gather you made this payment by your check?

A. That is my impression.

Q. What do you mean by your impression, that you remember that it was or you remember it was not?

A. I have no doubt but that it was made by check. I did not carry $400 about in my pocket.

Q. Was it not your practice in the disbursement of this Balloch money to pay it out by check?

A. It was, if any large amount.

Mr. MOULTON: Please produce the voucher or receipt and check that was given for this payment at the next session.

The WITNESS: I will produce the voucher, but I think the check is destroyed.

Q. Look on Exhibit 2, under date of September 8th, where you will find the entry of a note $152.67, and state whose note it was and by whom it was held.

A. I cannot tell.

Q. Was it not a note of Robert A. Balloch's held by yourself in your individual capacity?

A. I do not think it was, but I cannot tell.

502 Q. Did not Mr. Balloch, on July 30, 1879, give you an order in favor of the brick company, which you accepted September 10, 1879, for $300?

A. I cannot tell.

Q. Look on Exhibit 2, under date of Sept. 10, 1879, where a disbursement is made to Mr. Holbrook, and state what it was for.

A. Mr. Holbrook was the agent of the brick company and I have no doubt that that $306.20 was a payment for brick, but I have no recollection.

Q. Did you not in any instances, where Mr. Balloch gave any or-

ders on you in favor of other persons, take up these orders and give your note for 30 or 60 days as the case might be?

A. I have no recollection of doing so, but think it is not at all unlikely that I did.

Q. Did you not, in the case of this order which is entered here on September 10th, take up Mr. Balloch's order, which was dated June 30, and give your note to Mr. Holbrook for $300, payable in 90 days?

A. I have no recollection of doing so.

Q. Now, you look on same voucher under date November
503 1st, 1879, and see if you do not find the same item of $306.20 again charged as brick?

A. I do.

Q. Was not the original order given by Mr. Balloch on the 30th of July, 1879, for $300, and is not the $6.20 charged in this item interest at 8 per cent. on the $300 at the time given?

A. I cannot tell.

Q. And is not the item of September 10th and the item of November 1st, each for $306.20, one and the same charge?

A. I cannot tell.

Q. September 19, 1879, Exhibit 2, you have an item of $14.70 charged as gas. Will you please explain it?

A. I cannot explain it.

Q. September 20th, you have an entry of money paid to Gordon. Will you explain that?

A. I cannot.

Q. Look on October 14, 1879, at a charge for money disbursed on account of insurance. Can you tell us to what property that applies?

A. I cannot.

Q. Look at October 18, 1879, at an entry of $255.00, W. R. H., and explain it.

504 A. I cannot explain any of these charges without refreshing my memory with a sight of these original entries.

Q. Who is Mr. A. L. Sturtevant?

A. He is the head of the stationery department of the Treasury.

Q. What relation has he sustained in the past to the defendant insurance company?

A. He appraised the real estate of which they were invited to make loans.

Q. Was he employed by the company for the purpose of appraising that property?

A. He was employed by the person asking the loan.

Q. Do you mean that Mr. Balloch ever employed him?

A. Yes; Mr. Balloch was told that Mr. Stutevant's appraisal would be accepted by the company and he employed him.

Q. Who told Mr. Balloch?

A. I presume Mr. Terry did, and I presume I did.

Q. Mr. Sturtevant is a conscientious, upright man, is he not?

A. So far as I know.

Q. Thoroughly truthful and reliable?

505 A. So far as I know.

Q. And in all your communications with the company you have always been frank, accurate, and truthful in all of your dealings and communications with them, have you not?

A. I have meant to be.

Q. And you have been?

A. I have meant to be.

Q. The second half of these loans was due and payable when the houses were completed in accordance with the plans and specifications, was it not?

A. When the houses were completed and the title made good.

Q. Mr. Hooper, under date of December 22, 1879, you wrote the company as follows: "I enclose Mr. Stutevant's certificate that Mr. Balloch has completed the houses on which the company made him loans according to statements made at the time of loan. You will please forward me $5,100 due on last loan, deducting therefrom the following sums, with interest from November 1 to day of sending." That statement was correct, was it not?

A. I do not remember the statement.

506 Q. Have you any doubt that the statement then made by you in your final letter to the company was correct and true?

A. Yes; I have some doubt of it.

Q. Was this statement true or false?

A. Well, I cannot tell, but my opinion is that it was false.

Q. If it was false must you not have known it when you wrote it?

A. I should think so.

Q. Did you in any communication, and particularly in this communication, state facts that you knew to be false at the time of writing them to the defendant insurance company?

A. I do not recollect the state of facts at the time I wrote that letter. It has escaped my memory that I had written it.

—. The extract from your letter of December 2nd, 1879, to the company which I have read to you distinctly states, does it not, that all houses on which the company had made loans prior to this date had been completed in accordance with Mr. Balloch's agreement?

A. It appears to. I have no recollection of the letter.

507 Q. That would include the houses upon which the $16,000 loans rested and the houses on which the $10,200 loan rested, would it not?

A. I presume it would.

Q. What was the amount of the last payment due from the company on account of these three Balloch loans, and when was it due Mr. Balloch?

A. The last payment and deduction amounted to $1,500. I presume it to have been due that day.

Q. Was it due when the corner house was finished?

A. I cannot tell.

Q. On the 14th day of April, 1880, you wrote to Mr. E. W. Bond, Esq., president of the defendant company, a letter in which I find the following sentence: "$1,500 is now due Mr. Balloch on his

house, on which deed and note have been sent you. Please send him that amount, less interest due from him on sundry notes due May 1st. Credit him with interest from date of sending money to May 1, and deduct all interest then due." Does not this paragraph of your letter relate to the last payment due Mr. Balloch on account of these loans?

A. I think it does.

Q. Then I understand from this letter that Mr. Balloch had
508 completed all of the houses covered by the three loans in accordance with his agreement with yourself and the defendant company. Does it not so state?

A. It appears to.

Adjournment to meet at same place on Wednesday, October 8th, 1884, at 7 o'clock p. m.

OSCAR NAUCK, *Examiner.*

WASHINGTON, D. C., *October* 8, 1884—7 p. m.

Met pursuant to adjournment.

Present: Mr. H. B. Moulton, solicitor for the complainant; Mr. Seth A. Terry; Messrs. Edwards & Barnard, solicitors for the defendants, and the witness.

With the consent of the parties this session was further adjourned until November 22, 1884, at 3 o'clock p. m.

OSCAR NAUCK, *Examiner.*

509 WASHINGTON, D. C., *November* 22, 1884—3 p. m.

Met pursuant to adjournment.

Present: Mr. H. B. Moulton, for the complainant; Messrs. Edwards and Barnard, for the defendants, and Mr. Seth A. Terry.

Whereupon the cross-examination of WILLIAM R. HOOPER resumed.

By Mr. MOULTON:

Q. Mr. Hooper, at the last session you were requested to bring certain vouchers or original entries. Have you those with you?

A. I have, and produce them.

Q. Do these original entries cover all of the disbursements indicated in the Defendants' "Exhibit No. 2"?

A. They do.

Q. Will you hand me the original entry that relates to the disbursement of $422.16 to one Edmonston?

A. Here is the receipt for the money.

Q. This is a receipt for a check, is it not?

A. That is a receipt for a check.

Q. Have you the check referred to and described in this voucher?

510 A. I have not.

Q. Where is it?

A. I presume it is destroyed, but I do not know. I have not looked for it.

Q. What did you say this check was given for?

A. I do not remember that I said anything.

Q. What was it given for?

A. As I remember, it was given to pay an incumbrance on property which had been mortgaged to the company by Balloch, not being owned by him.

Q. Look on Exhibit No. 4, at your figures, and state whether or not you find it in that account, September 8th?

A. I do not see it there.

Q. Is it not a fact, Mr. Hooper, that this check was given and simply held by Mr. Edmonston pending a settlement and was subsequently repaid to you?

A. It was not; it was paid the next day and charged to my account.

Q. Does your bank book show such payment?

A. I have no doubt it does.

511 Q. Where is your bank book?

A. If it has not been destroyed it is at home.

Q. Will you produce it at the next session?

A. I will try to.

Q. Mr. Hooper, did you at any time that you held this money belonging to Balloch and the insurance company use it in your private matters?

A. Yes, sir.

Q. Did you ever loan it?

A. Yes, sir.

Q. To whom have you loaned money out of this fund?

A. I kept no distinction between this money and my own; I loaned from what there was to my credit in bank.

Q. How much was there to your credit when you made the deposit on account of the first loan?

A. I cannot tell; it was not large.

Q. Can you state to whom you loaned money?

A. I loaned $2,000 to Presbrey & Green.

Q. Did you at that time have $2,000 of your own money in bank?

A. No, sir.

512 Q. That was loaned out of this fund, then?

A. It was loaned out of what was to my credit in bank.

Q. Including this fund?

A. Yes, sir.

Q. Who else did you loan money to?

A. I have no recollection.

Q. Do you know one N. B. Clark; and, if so, did you make any loans to him?

A. I know N. B. Clark. I have no recollection of ever making any loans to him.

Q. Did you ever use this fund or any part thereof in making loans to Government clerks or others and receive therefore usurious interest?

A. Never.

Q. Did you not receive usurious interest under the name of commissions on money loaned?

Mr. EDWARDS: Question objected to because it asks the witness to state a proposition of law.

A. I did not.

Q. In what bank did you keep all of this money on account of these three loans?

513 A. Second National. I think the Freedmen's Savings and Trust Co., where I had had an account, had closed at that time.

Q. Your bank books will disclose the entire receipts and disbursements by you on account of this fund?

A. No; they will not.

Q. Why not?

A. Because I frequently handed Mr. Terry and Balloch cash.

Q. Was not that drawn out of bank?

A. Sometimes it was and sometimes it was not. If they wanted small amounts and I had it in my pockets I paid it to them.

Q. But your account with the Second National bank will disclose the amounts received, the dates of receipts, and all of the large payments on account of them, would it not?

A. I presume it would.

Q. Will you bring your accounts with the bank, including the period of time covered by these three loans, that we may examine them, and will you file a detailed statement as disclosed by the books of the bank with the examiner?

(Counsel for the defendants denys the right of the complain-
514 ant to what is asked in this question and instructs the witness not to answer until determined by the court.)

(Under the advice of counsel witness declines to answer.)

Whereupon counsel for both parties agree that they will appear in court on Monday next at 10 o'clock a. m. and submit the matter of difference raised by the last question to the court for its determination.

Adjourned to meet on Friday, at same place at 2 o'clock p. m., November 28th, 1884.

OSCAR NAUCK, *Examiner.*

WASHINGTON, D. C., *November 28th*, 1884—2 p. m.

Met pursuant to adjournment.

Present: Mr. H. B. Moulton, solicitor for the complainant; the complainant, Robert A. Balloch; Mr. Seth A. Terry, and Messrs. Edwards & Barnard, solicitors for the defendants.

Whereupon it is admitted by counsel for all the parties
515 that the question objected to at the last session was submitted to and heard by the court under the stipulation, and that the court decided that the question was competent and that the defendant produce the bank account or book with the Second National bank referred to in the question.

(The witness states that he produces the book of account mentioned.)

Cross-examination of WILLIAM R. HOOPER resumed.

By Mr. MOULTON:

Q. Mr. Hooper, are the old scraps of paper that you presented at the last session the account and original entries to which you have referred during your examination?

A. They are so far as I have them.

Q. Then from your answer I gather you are not certain whether they are all of them or not?

A. The original entries of two of the loans are there. I did not find the original entries of the third loan.

Q. Can you tell from an examination of this bank book to whom the money was paid under the disbursements included in this book?

A. From the bank book I cannot.

516 Q. Have you any record or account that will disclose it?

A. Only the original entries which I have already produced.

Q. Are all of the entries in this bank book found in your original entries?

A. I cannot tell.

Q. Are all of your original entries on the scraps of paper referred to found in this bank book?

A. No, sir.

Q. Do you know of any record from which I can ascertain to whom the money indicated in the disbursements in this bank book was paid?

A. No, sir.

Q. Have you the checks that are charged in this bank book?

A. I do not think I have. I looked for them and could not find them.

Q. What has become of them, if you know?

A. I do not know whether I have destroyed them or mislaid them.

Q. Do you find on these scraps of paper that you term original entries any entry of the $422.16 which you claim to have

517 paid to W. E. Edmonston; and, if so, where?

A. I do not find that precise amount.

Q. From whom did you get this receipt that we call the Edmonston receipt?

A. From Mr. Edmonston.

Q. Where and when?

A. It was either in his office or Mr. Hines' office; I have forgotten which. I have no reason to doubt it was the day it was dated. He handed it to me when I handed him the check.

Q. Is not this receipt a receipt to Robert A. Balloch and not to you at all?

—. It reads: "Received of Robert A. Balloch check of William R. Hooper."

Q. Why, if you paid that out, does it not appear in your original entries?

A. I cannot tell; the transaction happened so long ago.

Q. In the back of this bank book that you have produced I find under the heading of "notes for collection" quite a list of notes—those of Wells, Stephens, Little, Sexton, Tiffany, Stephens, Niles, Lupton, &c. Did not those notes represent money of Mr. Balloch's derived from these loans of the insurance company that you had loaned out to these individuals?

518

A. I cannot tell. I did not keep the money of Mr. Balloch separate from my own.

Q. Exhibit C. L. H. No. 11, filed in connection with complainant's testimony, is a paper which General Balloch testifies he prepared in your presence and which he and Robert A. Balloch both testify was read in your hearing at the time that it was written. Is that statement correct or not?

(Objected to, and the counsel is requested to read to the witness just what the complainant's witnesses did testify to, counsel for the defendants' recollection being different in this respect from what the question represents.)

A. My impression is that neither of these gentleman stated that fact in their testimony. It is not true. I never saw it until it was produced on trial. This statement was not read in my hearing at the time it purports to have been written. I never saw it or heard of it until after this case was commenced.

Q. How many of these houses on 16th street were completed when Mr. Balloch transferred them to you?

519

A. Not one.

Q. Did not Col. Hestor live in one at that time, sir?

A. Somebody lived in one, who told me he was paying no rent because the houses were not finished. There was no gas or water in them, I think he said.

Q. Are you certain that anybody made such a statement as that to you, sir?

A. I am certain that this Mr. Hestor, if that was his name, made some such statement about the house not being completed.

Q. Did he refer to the house that he lived in?

A. I so understood him.

Q. How many of these houses did you complete, Mr. Hooper, and when did you complete them?

A. I completed either two or four. I cannot tell when they were completed.

Q. Where were the houses located that you finished?

A. The most northerly of those embraced in the deed.

Q. Did you ever do anything to the house occupied by Mr. Hestor?

520

A. I have no doubt my agent, Mr. Covington, did.

Q. What knowledge, if any, have you upon that subject?

A. My knowledge is that I put the matter into the hands of Mr. Covington and he reported to me when the houses were finished.

Q. Is that all that you had to do with the completion of these five houses?

A. That was substantially all. I had a lawsuit with this Mr. Hestor. I could not get him out.

Q. Then you do know something about his occupying one of these houses?

A. I know after the property was conveyed to me that I found him in it.

Q. Who was Mr. Covington?

A. Market master of the market on the corner of O and 7th street.

Q. Is it not a fact that Mr. Covington has been a huckster in the markets until he was made market master of it?

A. I never knew him until I engaged him to do this work. I cannot say what he was before that.

Q. Did you ever know about his building any houses?

521 A. No.

Q. Can you now state the exact amount of money that you have paid out on account of the construction of these houses?

A. Only by examining the items in this account.

Q. Did Mr. Covington ever turn over to you a detailed statement, together with the vouchers covering the expense of the completion of the houses that he completed?

A. No; he did not. He made statements weekly how much money was needed and what for, and I advanced him the money.

Q. Where are those statements?

A. I suppose they vanished in thin air. They were verbal statements mostly.

Q. Mr. Hooper, if Mr. Covington says that he gave you a detailed statement in writing of every dollar disbursed by him, together with the vouchers therefor, is that statement correct or not?

(Objected to because incompetent, nor does the record disclose any such facts as the counsel supposes or assumes.)

A. I have no recollection of any such detailed statement.

Q. Have you any recollection of the vouchers and receipts for such disbursements?

522 A. I have.

Q. Where are they?

A. At my house.

Q. Will you produce them at the next session, so that I may examine them?

A. I will.

Q. Mr. Balloch produced a statement in your handwriting, which has been filed with his testimony, showing a claim of yours that it had cost $78,000 to complete these houses. Can you now state what was included in this large statement?

(Objected to for the reason that the paper referred to, which coun-

sel for the defendant understands is "Exhibit C. H. L. No. 4," and which counsel for the complainant admits is the paper, shows for itself what was *con*cluded in the aggregate sum of $78,200 referred to.)

A. Only by reading the statistics given on that paper.

Q. Mr. Bond, in his deposition, after referring to the payment by the company of certain amounts of money to complete these houses, uses this expression: "All receipts and other vouchers for
523 disbursements of said amounts are in the hands of defendant Hooper." This relates particularly to the money used by Smith in completing the houses. Will you please state where those vouchers are?

A. They are at my house.

Q. They consist of what?

A. They consist of weekly or semi-monthly statements by Smith & Son of expenditures on those houses and of vouchers accompanying the same.

Q. What do you mean by vouchers?

A. Receipted bills for expenditures.

Q. Will you produce these vouchers—receipted bills—at the next session?

A. I will.

Q. Was there any agreement between yourself and Mr. Balloch when he transferred this property to you relating to the division between yourself and Mr. Balloch of the profits arising from the sale of the property?

A. After he had agreed to transfer to me this property I said to him that if there were any profits in it he should have twenty-five (25) per cent. He neither assented nor denied, and never spoke to me about that matter until after this action was brought.

524 Q. What was the entire claim of Mr. Adams upon this property?

A. It is my impression it was a little over $14,000.

Q. "Exhibit No. 2," filed by you, discloses that prior to the transfer by Balloch to you of this property you had paid Adams $4,200, at another time $1,000, at another $5,141.00, making a total of $10,341.00; this in addition to whatever Balloch may have paid. In your deposition I find that you state that there was $8,000 due to Adams at the time of this transfer. How do you explain these figures?

A. I still think there was about $8,000 due Adams at the time of the transfer. He had received $4,200, I think, and one or two thousand more; that would leave $8,000.

Q. Do you claim that your account is correct which purports to show that you had paid on account of the Adams trust $10,341.00?

A. I should doubt if my accounts showed that prior to the transfer of the property. *A.* (After examining the account:) I thought it was correct when I made it out.

525 Q. What have you to say about it now?

A. I think there is a mistake made of $1,000. I refer to this one item of the Adams trust.

Q. That is, that you charge $1,000 too much?

A. Yes, sir.

Q. Which would leave $9,341 that ought to be in your account, would it not?

A. Yes; perhaps so.

Q. And that added to the $8,000 remaining due would make $17,341.00 as the amount due on the Adams trust?

(Objected to because the statement referred to does not show on its face what is claimed by the counsel, that the payments by the witness on account of the Adams trust, aggregating the sum of $9,341.00, were made prior to the transfer from Balloch to the witness, and because the witness has not stated that there was due Adams $8,000, but the statement is "about $8,000.")

A. It would, as you stated.

Q. Will you look in your account and see if these entries, aggregating, as you now state, $9,341.00, do not all appear prior to January 1st, 1880?

A. There is no date fixed to those entries.

526 Q. Do they not appear in the account that you filed prior to January 1st, 1880?

A. They do.

Q. Do you claim to have any knowledge of the money disbursed by Mr. Balloch on account of these houses prior to his obtaining the first loan from the defendant insurance company in June, 1879?

A. I do not.

Q. Then, so far as you have any knowledge, he may have expended five, six, or even $8,000 prior to obtaining this first loan?

(Objected to because incompetent, the witness having stated he has no personal knowledge whatever on the subject.)

A. I have no knowledge on the subject.

Q. Did you ever send any money derived from these Balloch loans to your son in business in Denver, Colorado; and, if so, what amount?

A. Never one cent.

Q. When did you get Mr. Hestor out of one of those houses that you say he occupied?

A. Speaking from memory, I should say it was about three months after the property was transferred to me.

527 Q. Do you remember the number of the house?

A. I do not.

Q. Is it No. 1818 16th street for which you filed a rent account?

A. I have no memory on the subject.

Q. How many of these houses on 16th street did you say Mr. Covington finished?

A. I think I said either two or four.

Q. Do you now remember which it was that he finished?

A. I do not.

Q. It was certain that two in addition to the Hector house, was it not?

A. The two or four would include the Hector house.

Q. Were all of the houses that he finished for you rented?

A. They were not.

Q. Did you ever rent them?

A. Some of them.

Q. How many of them that he finished?

A. I cannot tell from memory.

Q. Do you pretend, Mr. Hooper, that you are unable to tell how many of these 16th-street houses, finished by Mr. Covington, you rented?

528 A. I certainly cannot tell from memory.

Q. From what source did you obtain the items that make up the rent account that you have filed, which is marked "Defendants' Exhibit No. 5"?

A. From books of original entries.

Q. Where are those books?

A. At my office.

Q. Di I you collect the rents in person?

A. I think I did.

Q. From how many houses on 16th street?

A. I cannot tell from memory.

Q. From how many houses on S street?

A. Two, I think.

Q. Do you wish to testify, Mr. Hooper, that you never collected any rent from any of these houses on 16th street, except house No. 1818?

A. I have no recollection of any other.

Q. Will you produce that book of original entries containing these rent accounts at the next session, Mr. Hooper?

A. I will.

Q. How many of these houses have been sold?

The WITNESS: What houses?

529 Mr. MOULTON: Either or any of the S or 16th street houses which are the subject of this litigation.

A. I think there have been two or four.

Q. Can you state to whom and for what prices they have been sold?

A. Three of them, I think, were sold for $3,000 each to different parties whose names I am not sure of, and one to General Reynolds for $7,500.00.

Q. I see that Mr. Bond, in his deposition, states that two houses were sold to General Reynolds, one for $7,500 and one for $3,200. Is that correct?

A. One was a sale; the other was a verbal agreement for a sale which has not been carried out.

Q. Have you not since the beginning of this suit conveyed one of those 16th-street houses to General Reynolds for $3,600?

A. I have not.

Q. Is not the matter of this sale of the S-street house to General Reynolds the subject now of litigation occasioned by some controversy between General Reynolds, yourself, Mr. Smith, and one Sweet?

530 (Objected to because incompetent. The attention of the witness should be called to the suit, if any, mentioned by counsel and its identity established.)

A. It is not to my knowledge.

Q. Has not General Reynolds fully complied with his part of the contract of sale?

A. He has not. He has not paid the whole amount yet.

Q. Has he not paid the $500?

A. I cannot tell.

Q. Has not lot 20 been sold to J. H. Robinson for $3,000?

A. One of the houses sold was sold to a man by the name of Robinson for $3,000.

Q. Has not lot 21 been sold to A. H. Vass for $3,000?

A. I think another of the three houses was sold to Vass, but I am not sure.

Q. Has not lot 22 been sold to C. Brandt for $3,000?

A. I think Brandt purchased one of the three houses for $3,000, but I am not sure.

Q. Has not lot 23 been sold to Mr. Bremer for $3,000?

531 A. Breemer is paying some money, but whether it is on a sale or contract of sale I cannot say.

Q. Has not the 6th-street house, lot H, square 446, been sold to William M. Hodges for $3,500?

A. It was.

Q. In the case of the sales of this property was the purchase price paid in cash or is it evidenced by bonds or notes, or how?

A. The original sales of the S and 16th street houses were all of them, I think, mainly on mortgages to secure deferred payments, having been sold on time.

Q. Who holds these notes or bonds or whatever they are representing the deferred payments?

A. The Massachusetts Life Insurance Company.

Q. In the deposition of Mr. Bond, president of the defendant company, I find this statement: "I cannot state what amount has been received in bonds or notes on account of sales. The defendant Hooper is the only one who can give that information and
532 describe fully the character of said notes and give the particulars inquired about in this interrogatory." Will you therefore please state the amount of these bonds or notes, the rate of interest, when due, and fully describe the character and nature of the notes in detail remaining unpaid?

A. These houses were all sold, I think, on payments of $30.00 and notes given for each amount of $30.00 at one month at six per cent. interest on the principal, made payable to the Massachusetts Life Insurance Company, and the company has collected the $30 a

month ever since the sales; said notes have all been forwarded to the said insurance company and are not in my possession.

Q. When were those notes forwarded to the insurance company?

A. After the sales.

Q. Since you were sworn as a witness in this case or before?

A. From memory, I should say before.

Q. Was it before or after July 10th, 1884, the date of Mr. Bond's deposition?

533 A. I cannot tell.

Q. Your statement, Mr. Hooper, and your testimony thus far nowhere discloses the amount of money and notes that have been collected or received on account of the sales of this property, does it?

A. No, sir.

Q. Can you now state the amount of money and notes that have been received by the defendant insurance company or by you, as its agent, on account of the sale of this real estate?

A. $3,000 was paid in cash or notes on each of three houses, and $7,500 in cash on another house, and, I think, $3,500 in cash and notes on another house, which notes have been subsequently paid.

Q. You now say there were but five houses sold. A few moments ago I called your attention to the deposition of Mr. Bond and the names of purchasers given there which you recognized, of the sales of the following houses: One on 16th street to Mr. Reynolds, two on S street to Mr. Reynolds, another to Robinson, one

534 to Voss, one to Brandt, and one to Bremer, as also the 6th-street house to Mr. Hodges, making in all eight houses sold. Is that statement correct?

(Objected to because co-nsel knows the witness has made a distinction in his testimony in respect of sales of this property, treating sales, technically speaking, as sales where conveyances have been made; the others that certain payments have been made.)

A. I think five houses have been sold and deeds given therefor. The other cases mentioned are contracts for sale for which deeds are not yet given.

Q. By your statement, "Exhibit No. 2," you claim to have disbursed on account of these houses the sum of $37,236.66, from which certain credits for rents should be deducted. Will you now explain why, if that is all the money that you had disbursed on account of this property, you gave a deed of trust to the defendant insurance company for the sum of $71,000?

535 A. Because that sum of $71,000 included the loans to Balloch and the expenditures made by F. H. Smith & Son on the property.

Q. Do you mean by that, Mr. Hooper, that at the date of the deed of trust for $71,000 that F. H. Smith & Co. had expended the difference between this sum and the $71,000?

A. I mean to say that all of the expenditures on all of the property now in litigation amounted not far from $71,000.

Q. Had F. H. Smith & Son at the time of the giving of this deed

of trust for the $71,000 expended a dollar on account of the property?

A. They had.

Q. How much?

A. I cannot tell from memory. I should want to look at their purchases.

Q. I now hand you the statement made by the defendant company for money disbursed. How much, if anything, had been paid or expended by Smith on account of these houses before giving that deed of trust dated November 1st, 1881?

A. $500.

536 Q. Does that paper indicate that a dollar of the $500 had actually been expended on the property?

A. No; it does not.

Q. Then so far as you have any knowledge, Mr. Hooper, and can derive any from the account filed in the deposition of Mr. Bond, no money had been disbursed on account of this property by any person except the $37,236.66 claimed to have been paid out by yourself at the time you gave the deed of trust for $71,000?

A. I should think not.

Q. At whose request did you give this deed of trust for $71,000?

A. I offered to the company the deed of trust.

Q. Did this deed of trust cover and include all of your indebtedness to the defendant company?

(Objected to because the witness has not stated anything concerning his indebtedness to the defendant company either in direct or cross examination.)

A. I did not.

537 Adjourned to meet at same place on Monday, December 1st, 1884, at 2 o'clock p. m.

OSCAR NAUCK, *Examiner.*

WASHINGTON, D. C., *December 1st*, 1884—2 p. m.

Met pursuant to adjournment.

Present: Mr. H. B. Moulton, of counsel for complainant; Mr. Seth A. Terry, and Messrs. Edwards & Barnard, counsel for defendants.

Whereupon the witness produces the vouchers and papers requested at the last session.

Cross-examination of WILLIAM R. HOOPER resumed.

By Mr. MOULTON:

Q. If you are indebted to the insurance company only in the sum of some $37,000, why did you offer to give the deed of trust for $71,000?

A. That included all of the expenditures on this property made by the company.

Q. But, as I understand your testimony, at this time the com-

pany had expended nothing except what you claim in this
538 $37,000 that you claimed to have expended, had it?

A. This $37,000 did not include the rest of the debt to Adams, nor did it include taxes on the place, nor did it include expenditures made by F. H. Smith & Son.

Q. But Smith and Son at this time had not expended anything on the property?

A. It is my impression from memory that at the time the deed was given Messrs. Smith & Co. had expended over $20,000.

Q. Do you refer to the deed from Balloch to yourself?

A. No; I refer to the trust deed of $71,000.

Q. Yet the statement of the company discloses that this money was not expended or sent to Smith & Co. until after you had given this deed of trust, had it not?

A. I do not think it discloses that fact.

Q. Will you examine the statement of the company filed with Mr. Bond's deposition and see whether it does or not?

A. The account shows that between November and December they sent some $20,000 to Smith & Son.

Q. All of that was subsequent to the date of the deed of
539 trust for $71,000, dated November 1st, 1881, was it not?

A. I do not know when that deed was dated.

Q. It was sent subsequent to November 1st, 1881, was it not?

A. Yes; it was.

Q. And all of the balance of that fund was sent subsequent, if sent at all, to November 1st, 1881, was it not?

A. Yes; all except that $500.

Q. What was the amount of your indebtedness to the defendant company in excess of this $71,000, if any?

A. I am not aware that there was any excess.

Q. Then this $71,000 deed of trust covered your entire indebtedness?

A. It did.

Q. Where is your bank book prior to the one that you have brought here?

A. At my house.

(Counsel requests that the witness produce the book, which is agreed to be done.)

Q. Do you own any real estate located in the District of Columbia; and, if so, where, and what amount?

Objected to because incompetent and immaterial, and
540 counsel for complainant is requested to state the object of the question. Counsel for complainant declines to state the object of the question; whereupon counsel for the defendants instructs the witness not to answer, and, acting under the advice of counsel, the witness refuses to answer the question.

Q. Are you at this time the agent of the defendant insurance company?

A. I am.

Q. Who is Edwin J. Sweet?

A. He is a resident of Washington.

Q. What relation, if any, does he now sustain to the defendant insurance company in the matter of the sales of this property and the receiving and collecting of the rents arising from it?

A. None whatever, to my knowledge.

Q. Is he a responsible or irresponsible man?

(Objected to because incompetent and immaterial, and the witness is instructed by counsel not to answer, and, on the advice of counsel, witness declines to answer.)

Q. How many of these houses are now under rent?

A. Every one not sold.

541 Q. Who collects the rents of these houses?

A. F. H. Smith & Son.

Q. And to whom do they pay it over or deliver the rent?

A. They pay it over to me.

Q. Does the account that you filed, Exhibit No. 5, disclose all the rents that you received from them?

A. It does.

Q. Does your account, Exhibit 5, include all of the rent received by you from these houses down to the time of the filing of that exhibit?

A. It does not.

Q. Why did it not?

A. Because that was not asked for, as I understood it.

Q. Then, Mr. Hooper, as I understand you, no account or exhibit has been filed by you showing all of the rent you have received from these houses?

A. It has not, because it never has been asked for.

Q. Look at your Exhibit No. 5 and state whether or not that discloses rent received by you from more than four of these houses; and, if so, how many, and down to what date does it disclose

542 the receipt of rent from those houses?

A. It discloses rent from five houses up to November, 1881.

Q. Are not two of these houses the Massachusetts-avenue or Archer houses?

A. One of them is a Massachusetts-avenue and called an Archer house.

Q. Then, Mr. Hooper, you have filed no statement disclosing the rents received by you from Smith or otherwise from the twelve or fourteen houses that are remaining unsold, have you?

A. No; I have not.

Q. And there is no such exhibit filed in this case so far as you have knowledge?

A. None known to my knowledge.

Q. Does Mr. Smith give bond or anything for the proper accounting for these rents as collected?

(Objected to as immaterial.)

A. He does not to me, nor to my knowledge.

Q. Has Mr. Edwin J. Sweet ever turned over to you any rents collected by him on these houses?

A. He has not.

543 Q. Do you know that the rents collected by Mr. Smith or Mr. Sweet have been turned over to you?

A. I have no doubt of it whatever.

Q. Do you know that they have?

A. I cannot make any stronger statement than that I have no doubt of it.

Q. The exhibits that you have brought here in response to my request at the last session to bring in the vouchers relating to the rent accounts apply to only four houses, do they not?

A. I suppose they apply to all the former Exhibit No. 5.

Q. Do they apply to more than the four houses; and, if so, to how many houses?

A. It applies to the four houses on 16th and S streets. The book containing the rents from the Archer houses I find I have omitted. I have it somewhere.

Q. At a previous session during your examination-in-chief Mr. Edwards asked the following question: "At a previous session you were requested to produce a statement of the rents collected by you from the property in controversy and of the disbursements made on account thereof. Have you prepared such statement?

544 Answer. I have and produce it, which is a correct statement of all the rents received by me." In the light of your recent statements, is this answer to Mr. Edwards correct or not?

A. Perfectly correct as I understood the question.

Q. And this statement referred to in that answer was Exhibit No. 5, was it not?

A. It was.

Q. And actually contained the rents arising from only five of the houses and that down to about October 1, 1881?

A. That is correct.

Q. Upon the sale of these houses to whom was the cash payments made?

A. To F. H. Smith & Son.

Q. Was it subsequently turned over to you?

A. In all cases but one the money was all turned over to me.

Q. Were all the notes turned over to you?

A. The notes were all turned over to me.

Q. Were the notes payable to your order or to whom?

545 A. The notes were payable to the order of the Massachusetts Mutual Life Insurance Company.

Q. Did you or do — collect them as they mature?

A. I do not directly.

Q. How, then?

A. I send to Springfield for the notes and send them to Mr. Smith and Son for collection.

Q. When they mature. Then what becomes of the money?

A. Then they report that money to me each month.

Q. What do you do with it?

A. I send it on to the Massachusetts Life Insurance Company.

Q. Do you know the amount of money that you have thus received and handled from cash payments and notes collected?

A. I do not, from memory.

Q. Does your account, your answer, or any exhibit that you filed here disclose the amount?

A. It does not, because I have never been asked for it.

546 Q. Did you ever collect any of these notes before they were sent to the company; and, if so, how did you endorse them?

A. I did not.

Q. The company, in their account, claim that the house sold to Reynolds, No. 1603 S street, was sold for $3,200. Is it not true in fact that it was sold for $3,300?

A. It was originally sold for $3,200. I understand that Mr. Sweet afterwards raised the price to $3,300.

Q. House No. 1802 16th street was also sold to General Reynolds and, the company claim, for $3,500. Was it not in fact sold for $3,600?

A. It was sold for $3,500, as I understand, and the price afterwards raised for some reason to $3,600.

Q. Did you testify in your examination-in-chief that these S-street houses were all sold or contracted to be sold for the price of $3,000 each?

A. All but one house sold for $3,000, and I presume I so testified.

Q. Have you, since you have been under cross-examination, talked with any person in relation to the testimony that you had given or was about to give upon cross-examination in this case?

547 A. Yes; I have talked with my counsel.

Q. Has that occurred frequently during this cross-examination?

A. I do not know what the word frequently means. I have talked with them whenever I have had occasion to.

Q. And you have had occasion to talk with them after about every session of cross-examination, have you not?

A. About every one; yes.

Cross-examination here closed.

Adjourned to meet at notice of counsel for defendants.

548 WASHINGTON, D. C., *January* 26, 1885—2 p. m.

Met pursuant to agreement.

Present: Messrs. Edwards & Barnard, solicitors for the defendants, and the defendant William R. Hooper in person; Mr. H. B. Moulton, of counsel for the comp-ainant; the complainant in person, and Mr. Seth A. Terry.

Whereupon the witness produces bank book covering date of January 31, 1879, and hands the same to counsel for inspection.

Redirect examination of WILLIAM R. HOOPER begun.

By Mr. EDWARDS:

Q. Your attention has been called on cross-examination to certain items included in your statement of disbursements marked "Exhibit No. 2," which appear to be in a number of instances duplicate entries, and in one or two instances as triplicate entries. Please state these items in detail.

Mr. MOULTON: Question objected to as leading and being incompetent. Counsel for the defendant asks the examiner to
549 require the witness to state and the examiner to enter in the record what the papers are that the witness is now examining.

Mr. EDWARDS: Whereupon counsel for the defendant states, as counsel for the complainant well knew, that the counsel was asked whether *their* was any objection to allowing the witness to look at his own memoranda, to which no objection has been made, and now counsel for the defendant withdraws these papers from the witness, merely handed to him for convenience, and asks him to refer to his testimony on cross-examination for the items asked for.

Q. Your attention, under the necessities of the case, being called to the pages of the testimony marked in lead pencil where they appear on cross-examination, viz: 49, 50, 57, 58, 59, 60, 69, and 70?

Mr. MOULTON: Question objected to and of this method of examining the witness.

Mr. EDWARDS: The question is withdrawn.

Q. Your attention was called, on cross-examination, to a
550 letter written by you to the company under date of December 22, 1879. Please state the circumstances which controlled you in writting that letter and how you came to write it.

A. I was greatly worried lest I should be unable to finish the houses, and I wanted more funds to do it with. I was very anxious to save the company from loss on the Balloch loans, and I therefore wrote the letter.

Q. Had the houses mentioned in that letter at the date you wrote it, in fact, been completed?

A. They had not.

Q. Your attention was called on cross-examination to certain entries in your statement of disbursements, marked "Exhibit No. 2," which appear to be duplicates and in one or two instances to be triplicates. Please state how that happened.

A. I was keeping an account of each loan by itself and was in the habit of showing these accounts, kept on separate pieces of paper, to Mr. Terry and comparing my account thereon with his. I
551 charged item which belonged to a loan to that loan whether the company had withheld it or I had paid it. In making up my account for this suit five years afterwards I did not draw the distinction between what the company withheld and what I paid because the fact had entirely escaped my mind.

Q. How did the entries in respect of the smaller items and the payments to Adams appear entered in duplicate?

A. I made a payment to Albright for $1,000 and charged it the day I paid it to him. When I paid the whole note of $2,000 I charged the full amount of that note, forgetting that I had previously charged one thousand of it. In some instances I charged the amounts when I accepted the order, and then charged it again when I paid that order.

Q. Please state whether or not Mr. Terry knew of the manner you kept the items of your disbursements up to the time that
552 he discontinued or took no further part in the matter, which, according to my recollection of the testimony, was a short time prior to the execution of the deed by Balloch to you.

Mr. MOULTON: Question objected to as leading.

A. He did.

Q. Your attention was also called to the extent of a loan to one N. B. Clark. Please state whether, since your cross-examination was closed, you have made any further examination or obtained any other data concerning this matter of loan to Clark. If so, what is the result?

A. I find in my bank book a discount of a note of $100 to Clark, which was renewed in whole or in part once or twice and which I had forgotten.

Q. You have also been interrogated concerning certain rents and proceeds of sales from this property collected and received since October or November, 1881. Please state what disposition, if any, has been made of the net proceeds of these rents received since
553 that time and of the moneys realized on account of sales of the property to which you have testified.

A. The net proceeds of these rents and the amounts received has all been sent to the company, at Springfield.

Q. I call your attention to the statement marked "D," attached to the deposition of E. W. Bond, president of the defendant company, beginning with February 1st, 1882, and ending June 3rd, 1884. What relation, if any, does that statement bear to the rents and payments or sales which I have just asked you about?

A. They include the payments or rents and the receipts from sales and interest on notes given for property sold.

Q. Does that statement of rents and sales and interest include those forwarded by you?

A. It does.

Q. What, if any, income, whether for rents or interest or on account of sales of this property, has not been turned over by
554 you to the company on account of the indebtedness due to it?

Mr. MOULTON: Question objected to as leading.

A. None whatever.

Q. You have also been interrogated concerning the execution of the note and deed of trust to secure the $71,000 mentioned in the testimony and now held by the company. I wish you to explain

how and under what circumstances that trust was executed, and what arrangement, if any, you made in respect of the income from the property, its sales or other disposition, at the time for the purpose of the repayment of this debt.

A. After the company had advanced certain sums of money to Messrs. Smith & Sons to complete these houses they asked me to send a note for such an amount as should include the loans to Mr. Balloch, and all advances by the company to complete the houses, and to give a trust on the real estate to secure the same, with
555 the further agreement that all sums arising from rents or sales should be at once transmitted to the company.

Q. What objection, if any, is there by you to a correction of your statement of disbursements known as "Exhibit No. 2," concerning these duplicate and triplicate items appearing therein?

A. None whatever.

Q. Please state whether, to your knowledge, after the execution of the deed and transfer of this property by Balloch to you, either Balloch or Terry, to your knowledge, ever inspected the premises or manifested any acts of ownership over the same or any concern whatever about them, other than the inquiry by Balloch which led to the memorandum furnished him marked "Exhibit C. L. H. No. 4" with complainant's deposition.

Mr. MOULTON: Question objected to as leading.

A. None whatever.

Q. Up to the time of the filing of this bill, was any com-
556 plaint made, either directly or indirectly, by Balloch in respect to the manner of the completion of these houses, there management or sales?

A. None whatever, except that he once asked me why I had not employed him to superintend the completion of the houses instead of Mr. Covington.

Q. My recollection is that the statement of the rent account filed by you as an exhibit is brought down to the last of October or about the 1st of November, 1881, and the credits given in the company's statement "D," to which I have called your attention, commencing in February, 1882. I wish you to explain what disposition was made of the net rents and income from the property between the date to which your statement of rents is brought and the credits given by the company in its statement.

A. During these four or five months F. H. Smith & Son collected the rents and accounted for them to the company.

Q. In what way?

557 A. And accounted for them to the company in their construction account.

Q. Explain more fully what you mean by construction account.

A. They added the net amount of these rents to the amount sent by the company, and used both alike to construct the houses *and* 16th and S streets.

Q. Then I understand that these net rents from this period were applied by Smith & Son to the construction of the houses?

A. They were.

Cross-examination.

By Mr. MOULTON:

Q. Mr. Hooper, you state that certain rents were collected by Messrs. Smith & Son and used by them in the construction of the houses. Do you know whether or not the rents thus used appears in the accounts of the company heretofore filed in this case?

A. They do not.

Q. And these rents do not appear in your account filed in this case, Mr. Hooper?

A. They do not.

558 Q. Mr. Hooper, I hold in my hand a letter from J. J. Reynolds disclosing the fact that on June 8th, 1882, he paid to Smith & Son on account of the purchase of some of this property the sum of $7,480. Will you examine the account filed by yourself and that filed by — company and state whether or not this money appears on either of said accounts?

Mr. EDWARDS: Question objected to because incompetent and irrelevant and the witness is instructed not to answer.

A. By advice of my counsel I decline to answer

Q. Will you look at the account filed by Mr. Bond and also the account filed by yourself in this case and state whether or not there appears under date of June 8, 1882, on either of said accounts the receipt of the sum of $7,480 from Gen'l J. J. Reynolds on account of the purchase of a part of this property?

A. This item does not appear in either of those accounts, because the money was mainly used to pay taxes for the estate and the Adams notes.

559 Q. Do you or do you not remember authorizing Mr. Smith, the trustee under your $71,000.00 deed of trust, to release the corner house bought by Gen'l Reynolds and the one north of it from the operation of that trust; and, if so, what disposition was to be made of the fund arising from the sale of said houses?

A. I did authorize him to release it, and the funds were to be applied to the final payments on the Adams note and the balance to be transmitted to the company.

Q. Have you not already testified that the $71,000 deed of trust and note was given for the purpose of paying the Balloch loans, completing the houses, paying off the Adams trust and the taxes?

A. I have.

Q. If that is true, then why should not this $7,000 apply as a credit on that note?

A. I presume it does in some shape.

WILLIAM R. HOOPER.

Sworn to and subscribed before me this 14th day of March, A. D. 1885.

OSCAR NAUCK, *Examiner.*

(Testimony for the defendants here closed.)

560 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

I, Oscar Nauck, an examiner in chancery, do hereby certify that the within deposition of William R. Hooper was taken down and by me reduced to writing in the presence of and from the statements of the witness at the time and place designated in the caption thereof and by me read over to the witness and by him subscribed in my presence, the witness having been by me first duly sworn to testify the truth, the whole truth, and nothing but the truth touching the matters at issue in said cause.

I further certify that I am not counsel for any of the parties to said cause or in any manner interested therein.

OSCAR NAUCK, *Examiner.*

561 *Outstanding Bills on Houses in Square* 177, *Owned by Rob't A. Balloch and Deeded by Him to Wm. R. Hooper Feb'y* 26*th*, 1880.

Grocer cor. 15th & S St., orders for groceries	72 00
Do. 12th & Q St., " " "	5 00
Thos. Somerville, material for S-St. houses	71 39
Edwards, plumber, S-St. houses	21 00
Johnson, turner, " "	17 00
Williams, hardware	3 00
Plumley, frames	60 00
Turner, when he furnishes S*t*-St.	18 00
J. R. Riggles, paints	117 00
Dr. Adams, order sand	28 00
Donaldson, sand	11 00
Hamilton, cor*d*. 9th & D	3 50
Tom Smith	182 00
Brick Co	17 50
Riley, (about) concreting	12 00
Concreting Q-St. houses, about	45 00
Ayers & Belt, (note) material	160 00
J. G. Hester, about	60 00
Burke, frames & labor, 16th-St. basement	17 00
	$920 39
Mr. Kennedy, lime dealer	66 00
	986 39

[Endorsed:] Defendants' Exhibit No. 1.

562 W. R. Hooper, Dr., to cash receipts from Mass. Mut. Life Ins. Co. for R. A. Balloch.

June 4, 1879			$7,418 50
July 9, "			7,200
Oct. 17, "			4,105 08
Dec. 24, "			4,453 58
Feb. 17, 1880			6,750
Apr. 15, "			87 65
			$30,014 81
Deducted by company for interest due—			
June 4, 1879	$581 50		
Oct. 17, "	578 26		
Dec. 24, "	646 42		
Apr. 15, '80	1,412 35		
		3,218 53	
Deducted by company for houses sold—			
July 9, 1879	$800		
Oct. 17, "	416 66		
Feb. 17, '80	750		
		1,966 66	
Three loans, amounting to			$35,200

563 W. R. Hooper, Cr., by payments on ac. of R. A. Balloch.

June 6, 1879.	A. L. Sturtevant		$16
	Interest on 13th St.		7 50
	Do.		12 50
	Insurance		12 50
	Recording deeds		19
	Insurance		20
	Cash		400
" 7, "	Holbrook		300
	Cash		300
	Insurance		20
	J. G. Adams		4,200
" 10, "	Cash, R. A. B.		200
	Lumber, J. D. Kitch		702
	Cash, R. A. B.		220
" 18, "	Holbrook		189
	Cash, R. A. B.		127
	" "		240
	" "		40
	" "		225
July 7, '79.	Insurance		20
	Cash		20
	"		130
	"		1,000
	Interest		337 50
			$8,758

564				$8,758	
July	19,	1879.	Cash	300	
"	22,	"	F. H. Smith	45	
			Do.	26	38
"	26,	"	Cash	300	
Aug.	2,	"	Do.	300	
"	9,	"	Do.	400	
			Insurance, G. W. B	20	
"	14,	"	F. H. Smith	71	38
			Insurance	20	
"	17,	"	Cash, S. A. T	50	
			Real estate	1,000	
"	23,	"	Cash, Terry	30	
Sep.	8,	"	Note	152	67
			Edmonston	422	16
			Wormley	125	
			Taxes	104	17
			Ward	10	
"	10,	"	Holbrook	306	20
"			Stevens	200	
			T. W. Smith	425	
"	11,	"	J. G. Bond	27	25
			Plasteres	60	
"	18,	"	Cash, Terry	23	
"	19,	"	Gas	14	70
			Cash, Balloch	25	
"	20,	"	Gordon	4	
"	27,	"	Cash, Terry	50	
			Do. do.	100	
				$13,369	91
565				13,369	91
Oct.	5,	1879.	Cash	50	
"	6,	"	Stevens	200	
"	9,	"	Terry	60	
"	13,	"	Kennedy	57	40
"	14,	"	Insurance	11	62
"	18,	"	Balloch	100	
			A. L. Sturtevant	10	20
			W. R. H.	255	
"	20,	"	F. H. Smith	45	
			Caverley	47	64
			Insurance, 16th St.	11	25
			Do. S St.	20	
			Do. G. W. B., enla-gement	14	18
"	21	"	Balloch	40	
			Do. on houses	95	75
			Caverley	68	80
			Do.	38	40
			Insurance, Archer	11	25

Nov.	1,	1879.	Bricks	$306 20
"	4,	"	Insurance, G. W. B.	14 18
"	6,	"	Kitch	200
"	15,	"	Ward	12
"	23,	"	Cash	90
Dec.	9,	"	Nails	14 85
			Recording	22 25
			Insurance, G. W. B.	7 50
			Do.	15
			Terry, poor woman	12 50
				15,200 88
566				15,200 88
Dec.	9,	1879.	Cash	50
			Reiley	27
			Insurance	15
"	14,	"	"	11 62
"	16,	"	Tinning	100
			Cash	6 42
"	17,	"	Somerville	94 50
"	20,	"	Cash	100
* "	24,	"	* Interest	*578 66
"	27,	"	Cash	25
			Adams	3,000
			Albright	2,141 37
			Holbrook	1,122 73
			Interest	18 12
"	28,	"	Nails	7
Jan.	1,	1880.	Interest on all loans	638 76
"	10,	"	Cash	20
"	15,	"	Smith	162 74
"	17,	"	Cash	12
"	18,	"	Balloch	50
"	19,	"	Cash	43
"	22,	"	Record	1 50
"	24,	"	Cash	20
"	29,	"	Bingham	4
Feb'y	2,	"	T. W. Smith	33 75
"	12,	"	Ashford	10
"	14,	"	C. Kennedy	100
				23,015 39
567				23,015 39
Feb'y	19,	1880.	Sturtevant	9
				225
			W. R. H.	*255
			Pomeroy	379 35

* Erased in copy.

Feb'y	27,	1880.	Hayward	$200	
			W. Mayse	400	
"	28,	"	Moses	1,122	65
			W. R. H., com.	*100	
Mar.	2,	"	A. W. Bingham	5	50
			Gesford	150	
			J. D. Kitch	254	50
"	3,	"	A. W. Bingham	1	50
"	11,	"	M. Eastwood	1,209	
			Recording	1	75
			Ashford	5	
"	12,	"	Covington	25	
"	18,	"	Cotton	35	
"	22,	"	Pumphrey	100	
"	24,	"	Pettit & Dripps	185	
"	28,	"	Hodgson	99	50
"	31,	"	Covington	50	
			Hobbs & Wolf	60	
			H. & Hutchison	31	
April	1,	"	Covington & Bingham	56	46
			Reiley	22	
"	2,	"	Pumphrey	25	
"	1,	"	Covington	92	41
"	2,	"	Do.	97	
				27,987	01
568					
				27,987	01
April	2,	1880.	Hayward & Hutchinson	*31	
	5,		G. Balloch	33	
	8,		Covington	123	
	9,		Pumphrey	75	
	10,		R. Boyd	39	76
	12,		Boyd	91	13
	13,		Covington	48	
			Gas	14	65
	14,		Hobbs & Wolf	40	
	15,		Norton	10	
			Kennedy	25	25
			*Interest	*1,412	35
	17,		Covington	46	92
	20,		Pumphrey	40	
	21,		Hobbs & Wolf	*60	
	22,		Pumphrey (& release)	100	80
			Covington	24	
			C. Kennedy	1	87
			Caverly	90	
			Plasterer	24	
	24,		Covington	50	

*Erased in copy.

	28,	Pumphrey	$20	
	30,	Covington	314	12
		Caverly	108	
		Covington	46	20
May	1,	*C. Kennedy		
"	3,	T. W. Smith	400	
			31,(*25)6	06
			19	
569			31,196	06
May	6, 1880.	Mantels	55	
	7,	Covington	70	
	10,	Caverly	150	
	13,	Covington	30	
	15,	Plastering	8	
	20,	Covington	100	
	26,	Pumphrey	22	
June	1,	Covington	406	51
	2,	Do.	95	
		Insurance	7	
	4,	(*Painter) Caverly	59	
		Paving, &c.	87	50
		Covington	63	
	6,	Insurance	6	75
	12,	Water, &c.	7	50
	22,	Gas, &c.	15	80
July	3,	T. W. Smith	302	42
Aug.	12,	Ashford	5	
	14,	Interest	808	
		Hayward & Hutchinson	92	53
		Interest	383	20
		Insurance	5	
Sept.	29,	Caverly	86	
Nov.	27,	Hayward & Hutchinson	130	17
	29,	Adams	164	35
Dec.	3,	Interest	408	
	6,	Do.	120	
			35,191	26
570			35,191	26
Dec.	21, '81.	Interest	1,820	40
Nov.	18, 1879.	Cash paid for note	225	
			$37,236	66

[Endorsed:] Defendants' Exhibit No. 2.

*Erased in copy.

571 DEFENDANT-' EXHIBIT No. 3.

WASHINGTON, D. C., *November 18th*, 1879.

One month after date I promise to pay to the order of Wm. R. Hooper two hundred twenty-five $\frac{00}{100}$ dollars at Second Nat'l bank, Wash., D. C.

Value received, with interest at — per cent. per annum until paid.

$225\frac{00}{100}$. ROB'T A. BALLOCH.

DEFENDANT-' EXHIBIT No. 4. Chas. L. Hind, Examiner.

	Page 1.	Terry.	Hooper.
June 6.	Sturtevant	$16	$16
	Int. on 13 St.	7 50	7 50
	Do.	12 50	12 50
	Insurance	12 50	12 50
	Recording, &c.	19	19
	Insurance	20	20
	Cash	400	400
7.	Holbrook	300	300
	Cash	300	300
	Insurance	20	20
	J. G. A.	4,200 00	4,200
10.	Cash	200	200
	Lumber	702	702
	Cash	220	220
18.	Holbrook	189	189
	Cash	127	127
	"	240	240
572	"	40	40
	"	225	225
July 7.	Interest	20	20
	Cash	130	130
	"	1,000	1,000
	Interest	337 50	337 50
		$8,738	$8,738

Chas. L. Hind, Examiner.

	Page 2.	Terry.	Hooper.
July 19.		$8,738	$8,738
	Cash	300	300
26.	"	300	300
Aug. 2.	"	300	300
9.	"	300	400
	Houses	800	800
	Insurance, G. W. B.	20	20
14.	F. H. Smith	71 38	71 38

Page 2.		Terry.	Hooper.
Aug. 9.	Insurance	*$20	$20
17.	Cash	50	50
23.	"	30	30
Sept. 8.	Note	152 67	152 67
	Wormley	125	125
	Taxes	104 17	104 17
	Ward	10	10
10.	Holbrook	300 00	306 20
	Stevens	200	200
	T. W. Smith	425	425
11.	J. G. Bond	27 25	27 25
	Plastere-s	60	60
573			
18.	Cash	23	23
27.	"	50	50
	"	100	100
18.	Balloch		25
Oct. 6.	Stevens	200	200
		$12,786 47	$12,837 67

Chas. L. Hind, Examiner.

Page 3.		Terry.	Hooper.
		$12,786 47	$12,837 67
Oct. 6.	Terry	60	60
	Kennedy	57 40	57 40
18.	Balloch	100	100
	F. H. Smith	45	45
21.	Balloch	40	*40
"	" on houses	100	95 95
20.	Caverly	47 64	47 64
			20
	Insurance, 16th St.		*11 25
	*" *S		*20
Nov. —.	" G. W. B. enlargement		14 18
15.	Ward	12	12
23.	Cash	90	90
6.	Kitch	200	200
5.	Cash	50	50
22.	*Cash		*40
	Insurance		*11 25
			15
9.	Insurance		*20
	Add	101 33	
	Poor woman	12 50	12 50

* Erased in copy.

574

Page 3.	Terry.	Hooper.
Jan'y 1. Interest on all loans	$638 76	$638 76
Mar. 2. A. W. Bingham	5 50	5 50
J. D. Kitch, lien	254 50	254 50
18. Cotton, "	35	35
	$14,956 10	

Chas. L. Hind, Examiner.

1880. Page 4.	
	$14,591 10
Mar. 11. M. Eastwood	1,209
Recording, &c.	1 75
22. Pumphrey	100
Recleaning	80
24. Pettit & Dipps	185
	$16,087 85
Transferred to loan of $10,200	87 85
	$16,000

[Endorsed:] Chas. L. Hind, examiner. Defendant Exhibits "No. 3" and "No. 4."

575 DEFENDANTS' EXHIBIT No. 5.

Rent Account, W. R. Hooper.

Howard house, 1414 6th St.

1880.		
Rents received		484 25
Expenditures:		
May 1. Interest	53 96	
June 1. Taxes	37 13	
Dec. 1. "	52 92	
Feb. 2. Repairs	8 75	
Mar. 4. "	4 20	
Ap. 15. Fence	5	
		161 96
		322 29

Mass. Ave., Archer house.

Rents received		479 70
Expenditures:		
Interest, May 1	110 40	
Water	5 40	
Taxes, June 1	42 42	

Plumbing	5 75	
Painting, June 10	6	
Tax, " 28	21 31	
Glass, &c., Sept. 1	4	
Repairs	6 25	
Taxes, Dec. 4	38 02	
Water, &c., Mar. 3	6 45	
		246
		$233 70

576 & 577 1603 S St.

1880.

Aug. 6.	Rent	10		
Sep. 16.	"	19 45		
Oct.	"	16 50		
Dec.	"	38 95		
Jan.	"	19 50		
Feb.	"	20 50	Repairs	8 41
Mar.	"	14 75	Water	4 68
May	"	19 50		
June	"	20 50	Caverly	9 40
July 1.	"	20 50	Roof	4 50
" 18.			Plaster	3
Aug. 1.	"	20 50		
Sep. 1.	"	20 50		
Oct. 1.	"	20 50		
Nov. 1.	"	20 50		
		282 15		29 99
		29 99		
		252 16		

1605 S.

1880.

Oct. 1.	Rent	21 64		
Dec. 15.		45 95		
1881.				
Jan.		19		
Feb.		19		
Mar.		14 25	Repairs	11 98
May		19	"	7 49
June 15.		10		
July 1.		10	Roof	4 50
		158 84		23 97

578 1605 S St.—Continued.

1881.			158 84				23 97
July 15.	Rent		10		Plaster		3
" 31.	"		10				
Aug. 15.	"		10				
" 30.	"		10				
Sep. 15.	"		10				
			208 84				26 97
			26 97				
			181 87				

1818 16th St.

1880.							
May 12.	Rent		3				
Oct. 1.	"		2 10	June 1.	Insur		2 25
Nov. 1.	"		10 95		Gas		80
Dec. 31.	"		18 80				
1881.							
Jan. 31.	"		23 40				
Mar. 1.	"		22 95	Mar. 10.	Repairs		3 50
Ap. 1.	"		22 95	" 23.	Water		4 40
" 30.	"		22 95		Repairs		2 10
June 1.	"		22 95				
July 1.	"		22 95				
" 15.	"		11				
" 30.	"		20				
Sep. 1.	"		20 80				
Oct. 3.	"		20 45				
			245 25				13 05
			13 05				
			232 20				

Net Receipts.

1414 6th	*$316 04	322 29
Mass. Ave. & E	*228 20	233 70
1603 S	*252 16	252 16
1605 S	*181 87	181 87
1818 16	*229 30	229 30
	*$1,207 57	1,219 32

[Endorsed:] Defendants' Exhibit No. 5.

*Erased in copy.

579 WASHINGTON, *March 13th*, 1879.

Received of R. A. Balloch one hundred dollars on account of interest.

W. R. HOOPER.

[Endorsed:] Exhibit O. N. No. 1.

580 *Reference — Auditor.*

In the Supreme Court, District of Columbia, this 21st Day of April, A. D. 1885.

ROBERT A. BALLOCH
vs.
THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY and WILLIAM R. HOOPER. } No. 8381, Eq. Doc. 22.

Filed April 21, 1885.—R. J. Meigs, clerk.

This cause came on to be heard, and the bill, answers, and all of the other proceedings being by the court heard and considered—

It is therefore, this 21st day of April, A. D. 1885, by the court ordered, adjudged, and decreed that the complainant is entitled to an account from the defendants of and concerning the several matters set forth in the said bill; and, for the taking of such
581 account, it is further ordered and adjudged that this cause be, and the same hereby is, referred to the auditor of this court, with authority to state all such accounts as are hereby directed from the testimony now in the cause and such further and other testimony as may be adduced before the auditor.

And the auditor is hereby authorized and directed to examine such witnesses and to take such further evidence as may be brought before him by the respective parties upon the previous notice usual in such cases.

It is further ordered that the said auditor will ascertain and set forth:

First. The value of the said several parcels of real estate at the time *of* the several deeds of trust from Balloch to Hooper were made, to wit, June 4th, 1879, October 18th, 1879, and February 17th, 1880.

Second. The value of the several houses then built or in process of erection on the said lots respectively on the 25th day of February, A. D. 1880, when the same were conveyed by the complainant to defendant Hooper.

Third. The amount of money then required to complete the said houses respectively and the amount actually expended by the said Hooper or the defendant company in the completion of the same.

Fourth. The amount of the several loans made by the defendant insurance company to the complainant and the security taken at the time for such loans respectively.

Fifth. The amount of money paid out by the defendant insurance

company on said loans and the amounts and particulars of the several credits or payments other than cash claimed by the defendant company to have been proper credits to it on said loans, together with the then fair value of the parcels of real estate said to have been received by the complainant as part of said loans and the amount of interest then properly chargeable against the complainant and reckoned as payment on account of the defendant insurance company.

582 Sixth. The actual state of the account between the complainant and the defendant company and Hooper as its agent on the 25th day of February, 1880, showing the debits and credits properly entering into said account.

Seventh. The fair value of the property conveyed to the defendant Hooper by the complainant on the 25th day of February, 1880, at that time, particularly setting forth such value house by house.

Eighth. The amount expended by the defendant company or by defendant Hooper as its agent, or by Hooper on his own account, upon said houses and each of them after the said 25th day of February, 1880, together with all sums paid by either of said defendants as aforesaid on account of taxes upon said property.

Ninth. The amount collected or received by defendant Hooper, or by the defendant insurance company or its agent or agents, on account of rent from each and all of said houses after the 25th day of February, A. D. 1880.

Tenth. A statement of the several sales of either of the said houses, together with a statement of the time of such sales, the price for which they were respectively sold, the person or persons to whom sold and the amount of purchase-money paid, and the balance, if any, now unpaid, together with a statement showing which of said houses or lots, if any, are unsold and the present value thereof.

Eleventh. A statement of the account between the defendant company and the said Hooper in respect to the transactions referred to in these proceedings, from their inception to the time of the taking of this account.

Twelfth. The amount of money paid by the complainant from sources other than the loans by the defendant company on account of the purchase of said real estate or the improvements thereon up to the date of the deed to Hooper by the complainant of the 25th day of February, A. D. 1880.

Thirteenth. A statement of the liens and encumbrances upon the several parts of said real estate on the 25th of February,

583 1880, and of all payments on account of such liens or encumbrances made by the defendants or either of them subsequent to said date, and of all payments by the said defendants or either of them on account of expenses attending the sale of any of said property, and of all disbursements made by them after said date on account of the care and preservation of said property.

It is further ordered, adjudged, and decreed that all further questions presented by said proceedings are reserved for the coming in of the said account.

By the court:

A. B. HAGNER.

584 *Petition of the Defendants for Leave to Convey and Have Released Lots 89 to 98, Balloch's Sub., Square 177, &c. Filed September 16, 1885.*

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

The petition of defendants for leave to convey lots numbered 89 to 98, inclusive, in Balloch's sub. of square 177, and to have the same released from the operation of this suit.

William R. Hooper and the Massachusetts Mutual Life Insurance Company petition the court and state that they are the defendants herein and the owners of the lots numbered 89, 90, 91, 92, 93, 94, 95, 96, 97, and 98, in Balloch's sub. of square numbered 177, in Washington city, District of Columbia.

That the bill in this cause is filed on the theory that the said lots, as well as the others in the bill described, and which are im-
585 proved by dwelling-houses erected thereon, have been sold by the defendants, and that after a settlement with them by the complainant a portion of the purchase-money, to wit, three-fourths (¾) of the profits accruing in buying the grounds and building the houses, belongs to the complainant. The answers deny this and show that the property has not been sold, and that the complainant is not, and will not be, entitled to anything out of the property, he having conveyed it absolutely to the defendant Hooper.

The issues have not yet been determined, but the case is now before the auditor, who is engaged in taking proof under an order of reference from the court to ascertain certain facts.

The defendants, having an opportunity to seel the ten lots and houses thereon, described as above, state to the court that they have conferred with complainant, through his solicitors, and submitted to them an order, which they ask to be made by the court in this case, to the effect that the said lots be released from the operation of this suit, and the proceeds of sale, to wit, $32,000, be credited
586 by the defendant the said insurance company to the complainant, to be accounted for in any accounting between the complainant and said defendant to be hereafter made; that these petitioners aver there is and can be no amount going to complainant on a fair and full settlement and adjustment in equity between complainant and defendants on the theory of his bill, but they say there is other property affected by this suit, not yet sold and which they do not ask to have released, which will be ample security to complainant for any amount he may possibly recover in any event. Besides, they state the defendant the insurance company is abundantly able to respond to any demand which may in any event be decreed by this court in this proceeding. They further state that the said price for which they can now sell said property, $32,000, is

a good price for the same, and the interest which they can obtain on investing said amount or loaning it will be a greater source of revenue to them than the rents from said property. They therefore state that they are willing any reasonable arrangement shall be made which the court may deem necessary to protect the
587 supposed rights and interests of the plaintiff herein pending this suit, but they ask that the said lots may be released from the lien and operation of this proceeding in order that the contemplated sale may be effected without delay, because they fear so favorable an opportunity to sell may not soon occur again, if ever.

They submit herewith the affidavits of leading real-estate brokers in this city showing that the price offered and for which they have proposed to sell this property is a fair and ample price.

WILLIAM R. HOOPER.
THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY,
By EDWARDS & BARNARD, *Solicitors.*

Subscribed and sworn to before me this 16 day of September, 1885, by Wm. R. Hooper.

[SEAL.] HILLMAN A. HALL,
Notary Public.

588 *Affidavit of Brainard H. Warner. Filed September* 16, 1885.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

Brainard H. Warner, being duly sworn, says that he is engaged in the business of buying and selling real estate in the city of Washington, having his office at 916 F street N. W., in said city, and that he has been engaged in real-estate business for more than fifteen years last past in said city, and he is acquainted with the property on 16th St. near S N. W. known as lots 89 to 98, inclusive, in square No. 177; that in his judgment the said property is fairly worth $32,000, and that such would be a good and reasonable price therefor and as much and probably more than it would bring at auction. He further says he has no interest in this suit or in said proposed sale of said property.

BRAINARD H. WARNER.

Sworn and subscribed to before me this 16th day of September, 1885.

[SEAL.] HILLMAN A. HALL,
Notary Public.

589 *Affidavit of Francis H. Smith. Filed September* 16, 1885.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

Francis H. Smith, being sworn, says that he is a real-estate broker in the city of Washington and has been such for several years; that he is a member of the firm of F. H. Smith and Son, whose office is at No. 1222 F street N. W., in said city; that he is well acquainted with the values of grounds and buildings in the vicinity of 16th and S streets N. W., and particularly the lots numbered 89 to 98, inclusive, in Balloch's sub. of square No. 177; that his firm have had said property in charge since the buildings erected on said lots were completed, in the spring of 1882; that said firm have collected the rents of said buildings since their completion, and, with all the diligence and economy they have been able to exercise, have not
590 been able to return to the owners an average of as much as four per cent. per annum net revenue on the amount of $32,000, for which it is now proposed to sell said lots, and he states that after careful consideration he considers the price named as reasonable and fair therefor and more than the said property would probably bring at auction. He further says he has no interest whatever in the matter of said suit.

FRANCIS H. SMITH.

Subscribed and sworn to before me this 16 day of September, 1885.

[SEAL.] HILLMAN A. HALL,
Notary Public.

591 *Affidavit of Thos. J. Fisher. Filed September* 16, 1885.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

Thomas J. Fisher, being sworn, says that he is a real-estate broker in the city of Washington and has been such for many years; that he is a member of the firm of T. J. Fisher & Co., whose office is at No. 1324 F street N. W., in said city; that he is well acquainted with the values of ground and buildings in the vicinity of 16th and S streets northwest, and particularly the lots numbered 89 to 98, inclusive, in Balloch's sub. of square No. 177, having recently had his attention called thereto and having visited the same for the express purpose of estimating their value on inspection; that on a careful examination of the improvements and the surrounding

property he states that the price at which he is informed the
592 said ten houses and lots are now proposed to be sold, $32,000, is a reasonable and fair price therefor and is as much and probably more than the said property would bring at auction. He further says he has no interest whatever in the matter of this suit or of the proposed sale.

THOS. J. FISHER.

Subscribed and sworn to before me this 15th day of September, 1885.

EDWARD J. STELLWAGEN,
[SEAL.] *Notary Public.*

593 *Affidavits of Geo. F. Graham, Aaron S. Caywood, Dillard B. Groff, Edward A. McIntire, and Joseph G. Hester. Filed September* 23, 1885.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOVER *et al.* } No. 8381. Equity.

Edwin A. McIntire, being duly sworn, says that he has been engaged for the past fifteen years in buying and selling real estate in the District of Columbia; that he is well acquainted with the property on 16th street near S, known as lots 89 to 98, inclusive, in square 177; that in his judgment the said ten houses would sell, at present prices, at $4,000 apiece on reasonable terms; that the present tendency of values in the neighborhood of these houses is rather to appreciation than otherwise, and that he has no interest in this suit above designated.

EDWIN A. McINTIRE.

Subscribed and sworn to before me this 18th day of September, A. D. 1885.

[SEAL.] S. A. TERRY,
Notary Public.

594 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOVER *et al.* } No. 8381. Equity.

George F. Graham, being duly sworn, says that he is at present a member of the firm of John Sherman & Co., dealers in real estate in the city of Washington, in District of Columbia; that he has for the past ten years been more or less familiar with the values of property in said city, especially in the northwestern part thereof; that he is acquainted with the property on 16th street near "S" N. W. known as lots 89 to 98, inclusive, in square No. 177; that in his

judgment the said property is fairly worth ($37,500) thirty-seven thousand five hundred dollars, and that such would be a fair & reasonable price therefor, and that the tendency of values is towards appreciation, with no fear of depreciation.

GEO. F. GRAHAM.

Subscribed and sworn to before me this 17th day of Sept., A. D. 1883.

[SEAL.] S. A. TERRY,
Notary Public.

595 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

Dillard B. Groff, being duly sworn, says that he has been for the past 13 years building houses in the city of Washington, having built some 400 or 500 houses in said city; that he is well acquainted with the property on 16 street near S known as lots 89 to 98, inclusive, in square 177; that in his judgment the said ten houses are worth & would sell for on reasonable terms at $4,000 each; that the tendency of values in the neighborhood of these houses *are* up instead of down, and that he believes ground on 16th street in the neighborhood of these houses will sell for $2.00 a square foot inside of a year from this date; that he has owned, bought, and sold a large amount of ground in the immediate neighborhood of these improve-
596 ments, and believes himself fully competent to testify as to the value of said houses, and that he has no interest in the above-entitled suit.

DILLARD B. GROFF.

Subscribed and sworn to before me this 17th day of September, A. D. 1885.

[SEAL.] S. A. TERRY,
Notary Public.

597 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

Joseph G. Hester, being duly sworn, says that he is engaged in the business of buying and selling real estate in the city of Washington, and has been in said business for the past eight years; that he is well acquainted with the property on 16th street near S known as lots 89 to 98, inclusive, in square 177; that he lived in one of the houses and fully understands how they were built, as to the workmanship & material; that in his judgment the said 10 houses are fairly worth $37,500 and that such would be a fair and

reasonable price therefor; that he believes the houses could not be put upon the ground at this time for less than $4,000 apiece
598 or $40,000 for the ten, including the ground; that the tendency of values is upwards on 16th St. where these houses are located & in that neighborhood, and that $30 is a reasonable and fair rental value, and there should be no trouble in renting them at that figure, and that the ground on the opposite side of the street from these houses sells from $1.25 a foot to $1.50 a foot & cannot be bought for less, and these houses are on the most desirable side of 16th St., having an east front, the land under them being worth more than land on the opposite side.

Deponent further says that he has no interest in this suit.

JOSEPH G. HESTER.

Subscribed and sworn to before me this 17th day of Sept., A. D. 1885.

S. A. TERRY,
Notary Public.

[SEAL.]

599 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

Aaron S. Caywood, being duly sworn, says that he is engaged in *in* the business of buying and selling real estate in the District of Columbia, having his office cor. of 9th St. and N. Y. Ave. northwest; that he has been engaged in said business for the past 10 years, and he is acquainted with the property on 16th street near "S" known as lots 89 to 98, inclusive, in square 177; that in his judgment the said property is fairly worth $4,000 a house; that property on 16th St. is advancing in price with no tendency to depreciation.

AARON S. CAYWOOD.

Subscribed and sworn to before me this 21st day of Sept., A. D. 1885.

S. A. TERRY,
Notary Public.

[SEAL.]

600 *Affidavit of S. A. Terry, Filed by Complainant. Filed Sept.* 23, 1885.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

Seth A. Terry, being duly sworn, says that he is well acquainted with the property on 16th street near S known as lots 89 to 98,

inclusive, in square 177, having largely superintended the building of same; that from his knowledge of their cost, the present price of material, labor, and value of land in the immediate neighborhood of these houses he believes the property is fairly worth $40,000; that he was informed within the past 14 days, at the office- of Fitch, Fox & Brown, Hufty & Dyer, and Thomas J. Fisher & Co., that they held ground worth in this neighborhood at from $1.25 to $1.60 a square foot; that Charles A. McEuen, of the firm of Connard & McEuen, stated to him *him* that he believed the houses would sell for $4,000 apiece, and that they were worth that,
601 but declined to give an affidavit for the reason that it might affect some friend of his who was trying to purchase them; that Redford W. Walker, of the firm of Walker and Wilson (who, like Connard & McEuen, are in the real-estate business), stated to me that he believed the houses were worth $4,000 apiece. I also swear that they will rent at $30.00 a month apiece, and that there should be no trouble to keep them rented at that price; that I am informed by Col. J. G. Hester and George B. Wilson, of the firm of Walker & Wilson, that Rudolph Goldschmid is the party who mak-s the offer of $32,000 for the houses and that he is now arranging for a sale of them at $3,800 apiece; and, further, that I have no interest in this suit.

SETH A. TERRY.

Subscribed and sworn to before me this 23rd day of Sept., A. D. 1885.

G. W. BALLOCH,
Notary Public.

602 *Order Overruling Application to Release Lots 89 to 98, Inclusive, from the Operation of this Suit. Filed Sep.* 23, 1885.

ROBERT A. BALLOCH
vs.
WM. R. HOOPER *et al.* } Eq. No. 8381.

This cause came on to be heard on the petition and affidavits of the defendants for leave to have released lots Nos. 89, 90, 91, 92, 93, 94, 95, 96, 97, and 98, named in the proceedings, from the operation of this suit, and also upon the counter-affidavits on behalf of the plaintiff in opposition to said motion, and was argued by counsel; on consideration whereof it is this 23d day of September, 1885, ordered and adjudged that said application be refused.

A. B. HAGNER.

603 *Order for 2d Commission to Issue to Henry W. Bosworth to Take Depositions at Springfield, Mass. Filed July 9th, 1886.*

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

On motion of the defendants' solicitors it is this 9th day of July, A. D. 1886, ordered that another commission to take testimony in behalf of the defendants on interrogatories and cross-interrogatories attached under the order of reference to the auditor passed herein on the 21st day of April, 1885, issue to Henry W. Bosworth, of the city of Springfield, in the State of Massachusetts, in the usual form.

CHARLES P. JAMES, *J.*

I consent to this order.
July 9, 1886.

S. S. HENKLE,
Of Sol'rs for Compl't.

604 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH, Plaintiff,
vs.
WILLIAM R. HOOPER and THE MASS. MUTUAL LIFE INSURANCE COMPANY, Defendants. } No. 8381. Equity.

Interrogatories to be propounded to E. W. Bond, president of the defendant The Massachusetts Mutual Life Insurance Company, a witness on behalf of the defendants.

1. State your name, age, residence, and occupation, and if you say you are the president of the defendant company state how long you have occupied that position.

2. Are you acquainted with the plaintiff Balloch and with the defendant Hooper? If you say you are, state how long you have known them severally, and the character of your acquaintance with them respectively.

3. State the actual consideration for the promissory notes
605 of the plaintiff passed to and payable to the order of the defendant company, bearing date June 4th and October 17, 1879, and February 17th, 1880, secured by certain deeds of trust to the defendant Hooper on what is known as the S and Sixteenth streets property, in Washington city, District of Columbia, particularly described in the proceedings herein, and how such consideration was paid.

4. State what you know concerning the loans by the defendant company to the plaintiff represented by the promissory notes described in the last interrogatory & attach hereto a statement giv-

ing the dates and the amounts of payments to the plaintiff or on his account as the consideration for said notes.

5. The deed of conveyance from the plaintiff to the defendant Hooper mentioned in the proceedings in this suit bears date February 25th, 1880, and was recorded in the Liber No. 937, at folio 111, of the land records for the District of Columbia. State particularly and in detail the indebtedness due to the defendant insurance company by the complainant on account of the loans represented by the promissory notes described in the interrogatory No. 3 at the date of this conveyance.

606 6. What knowledge or information had you or any of the other officers of the defendant company of the proposal or the intention of the plaintiff to surrender the property given as security for said promissory notes, with the unfinished buildings thereon, prior to or at the time of the said conveyance of February 25th, 1880?

7. When, if you know, was the defendant company informed or notified of said conveyance to Hooper, and how was such information or notice communicated to the company?

8. What, if anything, has been paid by the plaintiff to the said company on account of the promissory notes of June 4th and October 17, 1879, and of February 17, 1880? If the said notes have been settled or cancelled, state in what manner.

9. What was the consideration for the releases of said property from the trust deeds given, as stated by the plaintiff, to secure said last-mentioned notes? Explain the circumstances of said releases and how they came to be executed.

607 10. What moneys of the defendant company has been paid out or advanced by it on account of the property involved in this suit, known as the "S and Sixteenth streets property," if any, other than the amounts represented by the promissory notes described in the interrogatory No. 3? Also attach hereto, as a part of your deposition, a detailed and particular statement of such additional payments or advances.

11. What moneys, if any, has been received by the said company to this time from said property? Also attach hereto, as a part of your deposition, a statement in detail of all such receipts.

12. Give the balance, if any, now actually due to the defendant company for moneys advanced & paid by it or its agents, either as loans secured thereby or expended or paid out in the improvement of said property or in the construction of the buildings thereon.

13. State the character and extent of the agency of the defendant Hooper for the said company and his powers and authority as such agent.

608 Lastly. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause or either of them, or that may be material to the subject of this your examination or the matters in question in this cause?

If *you*, set forth the same fully and at large in your answer.

EDWARDS & BARNARD,
Sol's for Defendants.

609 *Cross-Interrogatories to be Proposed to E. W. Bond, Witness for Defendants.*

(First interrogatory.) No question.

(Second interrogatory.) No question.

Third interrogatory, X In. # 1. How was the money loaned to Mr. Balloch sent to Washington? If by draft or check, to whom were they sent, and what, if any, instructions were given to your agent, William R. Hooper, in relation to the disbursement thereof, and what, if any, understanding existed between yourself and your agent, Hooper, in relation to its disbursement? Did you not know that at the time the loan was made the houses were only partly completed, and was not that the reason why only part of the loan was sent at first?

X In. # 2. In your answer you state that "in making said loan it was agreed and understood between the complainant and this defendant that the said sum of $581.50 for interest then due on the previous loan (13th-St. property) should be retained by the defendant from the said $16,000. Is it not a fact that at the time this loan was made (June 4, 1879) $550.00 of that interest had already
610 been paid your agent, Wm. R. Hooper, $450.00 of it by Rudolph Eichorn on or about January 31, 1879, and $100.00 by Robert A. Balloch March 13th, 1879?

Please annex to your answer any and all agreements with the complainant in relation to said transactions.

X In. # 3. Is it not a fact that the legal title to lot 14, square 722 (Archer house), was never vested in the defendant company and was not and could not be legally conveyed to the plaintiff (Balloch) by your company and that no consideration was therefore ever given by your company to Mr. Bulloch for $400.00 of the $800.00 deducted by you from his loan of $16,000.00?

X In. # 4. Is it not true, in fact, that the checks or drafts which in your answer you say were sent to Balloch's order were sent to your agent (defendant William R. Hooper) and that the money was collected by him and paid by him to Balloch in small sums as the work and improvements progressed so far as it was paid?

X In. # 5. Is it not true that no one of said loans was ever paid in full to the plaintiff, Robert A. Balloch?

X In. # 6. State whether or not your books show the sums actually paid by Hooper, your agent, to the plaintiff, Robert A. Balloch, out of the drafts payable to the order of Balloch on account of
611 said loans; and, if so, annex to your deposition a transcript from your books showing said payments.

X In. # 7. Did you have or did any officer of your company have any correspondence with William R. Hooper, your agent, or with the plaintiff (Robert A. Balloch) regarding the loans or either of them made by your company to the plaintiff, Balloch? If your answer be yes, please furnish and annex to your deposition all of such correspondence.

X In. # 8. Is it not true, in fact, that $247.48 of the $404.90 de-

ducted from the second or $10,200.00 loan was on account of lot 14, square 722, the property you attempted to sell to Balloch, but to which you had not title?

X In. # 9. Is it not a fact that the deduction of $578.26 from the second or $10,200.00 loan made by you to the plaintiff, Balloch, is for interest accruing upon loans made by you upon the property known as the 13th-street property?

If your answer be yes, is it not, in fact, true that said houses had been previously sold and the incumbrances assumed and the interest paid to your agent, William R. Hooper, by the purchasers thereof prior to the said loan of October 17, 1879?

612 X In. # 10. In your answer you deduct $646.42 from the second or $10,200.00 loan for interest. Is not this interest calculated upon the full face of the notes representing the $16,000.00 loan and the $10,200.00 and an amount that would have been due on the Archer house, if you could have given title, instead of upon the amount of cash actually paid to the plaintiff, Balloch, by your agent, Hooper, amounting to $14,488.40?

X In. # 11. Is it not true, in fact, that the $1,412.38 charged against the plaintiff, Balloch, in your answer- as interest calculated upon the face of the notes representing the $16,000.00 loan and the $10,200.00 loan and the $9,000.00 loan and the Archer house, to which you had no legal title, and for the Howard or 6th-street house, for months previously held and owned by you, instead of upon the cash actually paid to Balloch by Hooper, your agent, to wit, $14,725.15?

X In. # 12. Is it not, in fact, true that months prior to the date to which you have thus calculated interest on the face of all of the loans, to wit, May 1st, 1880, the plaintiff had transferred all of the property covered by all of your loans, as also a large quantity of other property not covered by your trusts to your agent,

613 Hooper, and that all of said loans not paid over to Balloch, to wit, $20,475.85, remained in the hands of your agent, Hooper?

X Int. # 13. Is it not true in fact that for the greater portion of the time for which you have charged this interest, amounting to $1,412.35, your agent held the balance or all of the money not expended in the construction of said houses, to wit, $20,475.85, and also all of the property covered by your loans and a large quantity of other property conveyed to him and collected and secured all of the rents arising from all of said property?

X Int. # 14. Is it not a fact that the Howard house or 6th-street property, on account of which you deduct $750.00 from the $9,000.00, was deeded back to your agent, Hooper, by Balloch eight days after your making said loan, and that he, Balloch, never recorded any value or consideration for the $750.00 so charged as aforesaid?

X Int. # 15. State whether or not any money was paid or received by the defendant company after Feb'y 25, 1880, the date of the transfer of the property by Balloch to your agent, William R. Hooper, towards the completion of said houses; and, if so, the amount so paid and by whom and to whom paid; and annex

614 to your answer all receip-s and other vouchers received for said disbursements.

X Int. # 16. State whether or not the said houses were completed by contract; and, if yes, by whom, how let, whether to the lowest bidder or otherwise, and by whom completed; and annex to your answer all contracts relating to the completion of said houses and all correspondence between yourself and defendant Hooper relating thereto, as also all vouchers and receipts for labor performed and materials furnished in the construction thereof.

X Int. # 17. State whether or not any of said houses or any of the property conveyed by said Balloch to your agent, Hooper, has been sold or conveyed; and, if yes, state what part has been sold, to whom sold, the price for which each has been sold or contracted to be sold, the amount of cash received by the defendant company or its agent or agents on account thereof, and what amount has been received in bond or notes on account of such sales, fully describing the character of such notes, their dates, amounts, the time of their maturity, rate of interest, to whom payable, and by whom held.

614½ X Int. # 18. How long has defendant William R. Hooper been the agent of the defendant company, and has there been any change in the character of his agency within the last ten years? And, if so, please state the date and character of such change.

X Int. # 19. Is it not a fact that the entire business transaction in relation to the loans made by the defendant company to the plaintiff, Balloch, were made and conducted by them through William R. Hooper, their agent?

X Int. # 20. Is it not true in fact that their agent, William R. Hooper, reported to the defendant company the progress of the work from time to time?

H. B. MOULTON,
Of Counsel for Plaintiff.

[NOTARIAL SEAL.]

Statement or schedule showing in detail facts regarding all notes or obligations of any kind now held by the Massachusetts Mutual Life Insurance Company for any deferred payments now due on properties secured by "trust deed" to said company by Wm. R. Hooper, bearing date of Nov. 1, '81, and which have been sold and released since said trust deed was given to said company.

Name.	Date of notes.	Amount of notes.	Rate of int.	Interest due 9, 1, '86.	Am't of notes and interest due Sept. 1, '86.	Time.	Description of security.
Breemer, E. J.	'83, May 1	780	6%	15 60	795 60	26 notes of $30 ea., one payable ea. mo.; last note due 4, 1, '90.	No. 1613 S street north, sublot 23, square 177.
Robinson, J. H.	'83, M'ch 1	1,290	6%	25 80	1,315 80	43 notes of $30 ea., one payable ea. mo.; last note due 2, 1, '90.	No. 1607 S street north, sublot 20, square 177.
Lamson, Emily C.	'84, Dec. 10	2,350	6%	47	2,397	13 notes of $25 ea., payable ea. 3 mos.; 1 note, $20.25, due in 5 years.	No. 1605 S street north, sublot 19, square 177.
Davidson, E. E.	'85, Feb. 2	1,350	6%	27	1,377	45 notes of $30 ea., payable 1 ea. mo.; last note due 11, 1, '90.	No. 1609 S street north, sublot 21, square 177.
Reynolds, John J.	'85, Sept. 1	2,600	6%	26	2,626	One note due in 3 years	No. 1603 S St. north, sublot 18, square 177.
Wright, Minna	'86, M'ch 16	2,410	6%	48 20	2,458 20	80 notes of $30 ea., & 1 note of $10, payable 1 ea. mo.; last note due M'ch 16, '93.	Cor. Mass'tts Ave. & 2d street, sublot 14, square 722.

616 In the Supreme Court of the District of Columbia, the 9th Day of July, 1886.

ROBERT A. BALLOCH
v.
WILLIAM R. HOOPER *et al.*
} Commission to Take Depositions. No. 8381, Equity Docket 22.

The President of the United States to Henry W. Bosworth, Springfield, Mass., Greeting:

Know you that, in confidence of your prudence and ability, you have been appointed and by these presents you are invested with power and authority to examine M. V. B. Edgerly, as a witness for the defendants in the above-entitled cause, upon the interrogatories annexed to this commission, and therefore you are hereby commanded, at a certain day and place or certain days and places to be appointed by you, to cause said witness to come before you and then and there examine said witness, on oath or affirmation, upon the said interrogatories and reduce his testimony into writing, to be signed by said witness, and, having so done, annex the same to this writ, closed up under your seal, and make return thereof into said court with all convenient speed.

Witness D. K. Cartter, chief justice.

[SEAL.]

R. J. MEIGS, *Clerk*,
By M. A. CLANCY,
Assistant Clerk.

617 Filed Oct. 7, 1886.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH, Plaintiff,
vs.
WILLIAM R. HOOPER and THE MASS. MUTUAL LIFE INSURANCE COMPANY, Defendants.
} No. 8381. Equity.

Interrogatories to be propounded to M. V. B. Edgerly, a witness in behalf of the defendants whose testimony is taken for the purposes of the order of reference to the auditor passed in this cause on April 21, 1885.

1. State your full name, age, and residence.

2. Do you hold any official position in or are you connected with or in the employ of the defendant The Massachusetts Mutual Life Insurance Company? If yea, state in what capacity you are employed by the said company or the official position you occupy therein.

3. If you answer that you are the president of said com-
618 pany, state what amount, if anything, is due to the said company by the defendant William R. Hooper as shown by the books or papers of said company in respect to the transactions referred to in the proceedings in the above-entitled cause from their

inception to the present time, interest being calculated to September 1, 1886. Attach hereto or file herewith, properly marked for identity, a true written statement in detail taken from such books or papers or a correct transcript thereof showing the items of the account of your company with said Hooper in respect to such transactions, and the periods for which interest is charged or allowed, and the rate of such interest.

4. State what, if any, promissory notes the said company now holds representing the deferred payments for or on account of such portions of the property involved in this suit as may have been sold since the 25th day of February, 1880, giving in detail and in schedule form (also properly marked for identity) as a part of your answer the names of the several makers and payees of such
619 notes, and their respective dates, amounts, time, rates of interest on each note computed to September 1, 1886; and if such notes be secured by deeds of trusts on any of said property describe such property so as to identify the security held for several notes.

Lastly. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

Cross-inter-ogatories waived.

Sept. 17, 1886.

S. S. HENKLE,
Counsel for Pl'ff.

620 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

STATE OF MASSACHUSETTS,
County of Hampden, } *ss:*

Be it remembered that at an examination of Martin V. B. Edgerly, a witness, begun and holden before me in pursuance of notice on the fifth day of October, 1886, when the within deposition was taken, I, Henry W. Bosworth, a commissioner duly appointed to take the deposition of said witness, did cause to be personally present at my office, in the city of Springfield, in said county, the said witness, Martin V. B. Edgerly, to testify on behalf of the defendants in a certain cause now depending in the supreme court of the District of Columbia, wherein Robert A. Balloch is complainant and The Massachusetts Mutual Life Insurance Company *et al.* are defendants, the said witness being examined by me upon the interrogatories annexed to the commission issued by said court to me
621 to take the deposition of said witness. In answer to the first interrogatory the said Martin V. B. Edgerly saith:

(1.) My name is Martin V. B. Edgerly; my age, 53 years, and my residence, Springfield, Massachusetts.

(2.) In answer to the second interrogatory he saith: I am the president of said company.

(3.) In answer to the third interrogatory he saith: There is due the said company from said Hooper the sum of fifty-two thousand and ninety-seven & $\frac{37}{100}$ dollars ($52,097.37), interest being computed to September 1st, 1886; and I herewith file a statement in detail taken from the books of the said company showing the items of said account, the periods for which interest is charged, and the rate of interest, which statement is marked Exhibit A on each page by the commissioner and covers three pages, said statement being also marked Exhibit A by me.

622 (4.) In answer to the fourth interrogatory he saith: The said company now hold notes of E. J. Bremmer, J. H. Robinson, Emily C. Lamson, E. E. Davidson, John J. Reynolds, and Minna Wright for deferred payments on account of real estate sold as inquired of in this interrogatory, the dates, amounts, rate per cent., time payable, and security of said notes being as stated in the schedule hereto annexed and marked by the commissioner "Exhibit B."

(Lastly.) In answer to the last interrogatory he saith: I am not aware that I know anything further material to the issue in this case.

MARTIN V. B. EDGERLY.

Subscribed and sworn to by M. V. B. Edgerly before me—

HENRY W. BOSWORTH,
Commissioner.

623 In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

I, Henry W. Bosworth, a commissioner appointed to take the within deposition, do hereby certify that the within deposition was taken down and by me reduced to writing in the presence of and from the statements of the witness at the time and place designated in the caption thereof and by me read over to the witness and by him subscribed in my presence, the witness having been by me first duly sworn to testify the truth, the whole truth, and nothing but the truth touching the matters at issue in said cause. I further certify that I am not of counsel for any of the parties to said cause or in any manner interested therein.

HENRY W. BOSWORTH,
Commissioner.

Fee for taking deposition, $10.00.
Paid me by Mass. Mutual Life Ins. Co.

H. W. BOSWORTH,
Commissioner.

(EXHIBIT "A." Henry W. Bosworth, Commissioner.)

EXHIBIT "A." M. V. B. Edgerly.

Mortgage Loan # 1086. Wm. R. Hooper.

Statement of Account to September 1, 1886.

Rate int., 6 %.

1881.					
Oct. 29.	To remittance to Smith & Son, to complete houses	500	4 10 2	145 17	
Nov. 4.	" " " " " to pay 1st mtg. & int.	1,677	4 9 27	485 49	
5.	" " " " " to complete houses	2,000	4 9 26	578 67	
12.	" " " " " " "	2,000	4 9 19	576 33	
22.	" " " " " " pay tax arrears	3,721 28	4 9 9	1,066 15	
Dec. 5.	" " " " " " complete houses	2,500	4 9 3	716 25	
20.	" " " " " " " "	2,500	4 8 26	710 83	
31.	" " " " " " " "	2,500	4 8 11	701 59	
	" trustees' fees, sales lot 89, to Hooper	2,500	4 8 0	700	
	" am't of 8 notes, Nov. 1, '81, of R. A. Balloch, of $2,000 ea., secured by lots 92 to 99, inc., on 16th St	234 76	4 8 0	67 17	
	" 18 mos. int. to Nov. 1, '81, on 5 of the above notes	16,000			
	" 12 " " " " 1, '81, on 3 " " "	1,200			
	" am't of 3 notes, Nov. 1, '81, of R. A. Balloch, $2,000 ea., secured by lots 89, 90, & 91, on 16th St	480			
	" 18 mos. int. to Nov. 1, '81, on one of above notes	6,000			
	" 12 " " " " 1, '81, " two " " "	240			
	" am't of 1 note, Nov. 1, '81, of R. A. Balloch, secured by lot No. 100, on 16th street	320			
	" 12 mos. int. to Nov. 1, '81, on above note	3,000			
	" am't of 6 notes, Nov. 1, '81, of R. A. Balloch, for $1,700 ea., secured by lots 18 to 23, inc., on "S" St. north	240	4 10 0	13,191 89	
	" 12 mos. int. to Nov. 1, '81, on above notes	10,200			
	" am't of one note, Nov. 1, '81, of R. A. Balloch, secured by lot 14, square 722, No. 402 Mass'tts Ave	816			
	" 12 mos. int. to Nov. 1, '81, on above note	2,760			
	" am't of 1 note, Nov. 1, '81, of R. A. Balloch, secured by lot H, square 446, 1414 6th St. n.w	220 80			
	" 12 mos. int. to Nov. 1, '81, on above note, at 7 %	3,750			
1882.		262 50			
Jan. 4.	" remittance to Smith & Son, to complete houses	2,500	4 7 27	698 75	
Feb. 23.	" " " " " " "	3,000	4 6 8	814	
May 13.	" " " " " " "	2,500	4 3 18	645	
17.	" Smith & Son, 3 % commission on sales of $18,700	561			
	" recording deed, No. 1414 16th St	6 50	4 3 14	154 47	
	" special tax, No. 1414 16th St	32 78			
1883.					
April 4.	" attorney fee	150			
	" fire ins. premium	15	3 4 27	33 74	
Dec. 31.	" attorney in suit	20	2 8 0	3 20	
1884.					
Feb'y 2.	" taxes	222 07	2 6 29	34 39	

		222 07	2 6 29		34 39	
29.	" 3 % commis. to Smith & Son on sales of $14,000	420				
	" abstract of title	30				
	" recording release	2 50				
	" tax certificates & costs, square 177	1,407 15		2 6 2	869 62	
	" Adams mtg. note & 1 year's interest	3,923 85				
	" recording release	1 25				
M'ch 1.	" attorney	26 20		2 6 0	3 92	
June 3.	" taxes	245 21		2 2 28	33 01	
Nov. 29.	" notary for deposition	25		1 9 2	2 63	
Dec. 31.	" adjustment in mtg. ac. of C. Brandt	10		1 8 0	1	
1885.						
Jan'y 2.	" repairs, &c., in Nov., 1884	60 82				
	" " " " Dec., 1884	124 40		1 7 29	51 88	
	" taxes of 1884	234 48				
	" attorney fee	100				
Feb. 5.	" repairs & commis	31 75		1 6 26	2 99	
" 28.	" adjustment of mtg. ac. of Brenner & Robinson	740		1 6 3	66 97	
M'ch 6.	" repairs & commis	73 73		1 5 25	6 56	
Ap'l 3.	" " " " & fire ins	43 97		1 4 28	3 72	
	Amount forward	82,130			22,368 39	
625						Page 2.
1885.	Amounts bro't forward	82,130			22,368 39	
May 2.	To repairs & commis	38 38		1 3 29	3 05	
June 3.	" " & "	37 15		1 2 28	20 13	
	" semi-annual taxes	232 57				
July 6.	" repairs & commis	41 40		1 1 25	2 86	
Aug. 27.	" " "	57 50		1 0 4	3 48	
Sept. 7.	" " "	43 22		0 11 22	2 54	
Oct. 7.	" " "	24 52		0 10 24	1 32	
Nov. 9.	" " "	93 50		0 9 22	4 55	
1886.						
Jan'y 6.	" " " for Nov. & Dec	211 15		0 7 25	17 31	
	" taxes	230 84				
Feb'y 9.	" repairs & commis	50 92		0 6 22	1 71	
M'ch 9.	" " "	80 53		0 5 22	2 30	
19.	" 3 % commis. sale lot 14	96				
	" perfecting title	20		0 5 12	3 25	
	" recording deeds	4 50				
April 9.	" repairs, commis., & ins	77 74		0 4 22	1 83	
May 10.	" " & "	82 09		0 3 21	1 52	
June 12.	" " "	76 22				
	" taxes	222 22		0 2 19	3 92	
July 15.	" repairs & commis	18 53				
	" attorney fees	100		0 1 16	90	
Aug. 5.	" repairs & commis	10 59		0 0 26	48	
		83,979 57			22,439 54	$106,419 11

Exhibit "A"– Continued.

Cr.

1882.						
Feb'y 1.	By am't rec'd from rents	164 35	4 7 0	45 19		
M'ch 1.	" " " "	154 37	4 6 0	41 40		
29.	" " " "	176 70	4 5 2	46 86		
April 27.	" " " "	199 85	4 4 4	52 13		
May 17.	By sale of lot H to Hodges	3,500				
	" C. Brandt on ac. of sale	60				
	" A. H. Vass " "	60				
	" J. H. Robinson on ac. of sale	210	4 3 14	1,049 95		
	" E. J. Breemer " "	150				
	" J. J. Reynolds " "	100				
	" A. H. Vass	15				
31.	" received from rents	155 31	4 3 0	39 60		
June 28.	" " " " & pay'ts on ac. of sales	201 15	4 2 3	50 39		
July 31.	" " " " " "	158 44	4 1 0	38 81		
Sept. 13.	" " " " " "	223 95	3 11 18	53 30		
Oct. 2.	" " " " " "	142 02	3 10 29	33 34		
Nov. 1.	" " " " " "	537 55	3 9 0	120 95		
Dec. 2.	" " " " " "	235 09	3 8 29	52 84		
1883.						
Feb'y 2.	" " " " " "	215 25	3 6 29	46 24		
March 3.	" " " " " "	197 13	3 5 28	41 33		
April 4.	" " " " " "	345 53	3 4 27	70 66		
May 2.	" " " " " "	676 58	3 3 29	135 20		
19.	" mtg. notes of H. Robinson	2,430	3 3 12	971 21		
	" " " E. J. Breemer	2,500				
June 2.	" rec'd from rents & pay'ts on ac. of sales	295 56	3 2 29	57 58		
July 4.	" " " " " "	493 95	3 1 27	93 57		
Aug. 3.	" " " " " "	161 70	3 0 28	29 86		
Oct. 2.	" " " " " "	285 75	2 10 29	49 95		
Nov. 3.	" " " " " "	235 52	2 9 28	39 95		
Dec. 1.	" " " " " "	460 72	2 9 0	76 02		
11.	" mtg. notes of C. Brandt	2,250	2 8 29	367 50		
31.	" rec'd from rents & pay'ts on ac. of sales	201 27	2 8 0	32 20		
1884.						
Feb'y 2.	" " " " " "	223 55	2 6 29	34 61		
	Amounts forward	17,400 44		3,670 64	106,419 11	

1884.	Am'ts bro't forward	17,400 44		3,670 64	106,419 11
Feb'y 29	By rec'd from sale to Reynolds	7,500			
	" ac. sale No. 1802 16th St. to Reynolds	300			
	" " No. 1605 S St. to Lamson	60			
	" " No. 1602 S St. & No. 1804 16th St. to Reynolds	279 30	2 6 2	1,294	
	" " No. 1602 " " & 1802 16th St. " "	124 66			

	" rec'd Smith & Son, int on funds held by them	238 40		
	" " rebate on special tax	105 20		
March 1	" " from rents & pay'ts on ac. sales	163 75	2 6 0	24 56
April 1	" " " " " "	336 83	2 5 0	48 83
May 2	" " " " " "	236 88	2 3 29	33 12
June 3	" " " " " "	585 80	2 2 28	78 87
July 2	" " " " " "	390 52	2 1 29	27 27
Aug. 2	" " " " " "	348 63	2 0 29	43 51
Sept. 2	" " " " " "	188 22	1 11 29	22 54
Oct. 2	" " " " " "	102 36	1 10 29	11 74
Nov. 15	" " " " " "	153 53	1 9 16	16 52
1885.				
Jan'y 2	" " " " " " in Nov. & Dec., '84	468 75		
	" " " E. J. Breemer on ac. sales	30		
	" " " J. H. Robinson " "	60	1 7 29	61 77
	" " " A. H. Vass " "	60		
Feb'y 5	" " " rents	220		
	" " " ac. sale to Lamson	112 42		
	" " " " " Vass	12	1 6 26	38 20
	" " " " " E. J. Breemer	30 30		
	" " " " " J. H. Robinson	30 30		
21	" " mtg. notes of E. C. Lamson	2,500	1 6 10	129 16
M'ch 6	" " fr. rents	316		
	" " fr. A. H. Vass on ac. of sale	117 80	1 5 25	38 66
28	" " from mtg. notes of E. E. Davidson	2,070	1 5 3	176 98
April 3	" " " rents	219	1 4 28	18 54
May 2	" " " "	247 50		
	" " " J. J. Reynolds on ac.	136 13	1 3 29	30 62
June 3	" " " rents	268 50		
	" " " Hooper for sundries	2 50	1 2 28	20 22
July 6	" " " rents	305 25	1 1 25	21 12
Aug. 27	" " " "	151 25	1 0 4	9 18
Sept. 7	" " " "	207 50	0 11 24	12 24
Oct. 7	" " " "	117 50	0 10 24	6 34
Nov. 9	" " " "	170	0 9 22	8 28
	" " " " J. J. Reynolds on ac. sales	89 90	0 9 22	4 37
Dec. 4	" " mtg. notes of J. J. Reynolds	3,172		
	" " " " "	2,867	0 8 27	268 73
1886.				
Jan'y 6	" " from rents in Nov., '85	251		
	" " " " Dec., 1885	279 90	0 7 25	20 78
Feb'y 9	" " " " Jan'y, 1886	282 50	0 6 22	9 51
March 9	" " " " Feb'y, 1886	266 25	0 5 22	7 62
19	" " " sale of lot 14 to M. Wright	3,200	0 5 12	86 40
April 9	" " " rents in March, 1886	271 25	0 4 22	6 42
May 10	" " " " April, 1886	217 50	0 3 21	4 02
June 12	" " " " May, 1886	272 50	0 2 19	3 58

Exhibit "A"—Continued.

July 15	By rec'd from rents in June, 1886	216 50	0 1 16	1 65		
Aug. 5	" " " " July, 1886	172 25	0 0 26	75		
		47,925 77		6,256 74		
	Balance due Sept. 1, 1886					54,182 51
						52,236 60
Sept. 1	To balance forward	52,236 60				
"	" repairs & commis	13 57				
						52,250 17
	CREDIT:					
	By rec'd rents	152 80				152 80
						$52,097 37

627 *Offer to Purchase Houses. Filed March* 6, 1887.

WASHINGTON, D. C., *Mar. 5th*, 1887.

H. B. Moulton, Esq., attorney, &c.

DEAR SIR: I have purchasers for the following houses on 16th St. N. W.: # 1804, 1806, 1808, 1810, & 1812, for $3,850.00 each, as follows: $850.00 cash, $1,000 in 1 year, $1,000 in 2 years, and $1,000 in three years, at 6% per annum interest.

Respectfully yours, THO. G. HENSEY.

628 *Order Denying Complainant's Motion. Filed March* 8, 1887.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

Complainant's motion filed herein on the 6th inst. for an order for the sale of certain of the houses involved in this cause coming on for hearing and having been argued by council, it is, this 8th day of March, 1887, ordered that said motion be, and the same is hereby, denied.

WM. M. MERRICK, *A. J.*

629 In the Supreme Court, District of Columbia.

ROBERT A. BALLOCH
vs.
THE MASSACHUSETTS MUTUAL LIFE Insurance Company and William R. Hooper. } No. 8381, Equity Docket 22.

Filed May 20th, 1887. R. J. Meigs.

Report of Auditor.

This cause is referred to the auditor to state certain accounts specially set forth in the decree.

After due notice I proceeded to execute this order of reference, and after examining the evidence then in the cause I received the further evidence adduced by the parties in the form of depositions and exhibits, which are returned herewith as a part of this report.

630 About the month of November, 1878, the complainant purchased a quantity of ground in square 177, in this city, giving for the purchase-money his promissory notes, secured by a deed of trust on the same property.

By a subdivision subsequently made by the complainant and recorded in June, 1879, a portion of the ground was parcelled into 14 lots fronting on 16th street, 6 lots fronting on S street, and 7 lots and

a fraction fronting on a new street designed to be laid out through the square between S and T streets and running west from 16th street. The latter street has never been completely laid out or graded and is still subject to the obstruction of a piece of ground, the owner of which has not given it to the uses of a highway. The lots on this front are still unimproved. After his purchase and prior to June, 1879, the complainant undertook the improvement of this ground by the erection of houses, intending to build on all of sublots fronting on 16th and S streets.

Through Mr. Seth A. Terry, his agent and representative in the several matters relating to the property in controversy here, the complainant applied to the defendant Hooper to procure a loan of money on the security of this property and with a view to continuing its improvement.

Hooper, who was the general agent of the defendant insurance company for this District in its business of insuring lives, procured the company to loan the sum of $2,000 upon the security of each of the sublots numbered 92 to 99, inclusive, eight lots fronting on 16th street, and aggregating $16,000 of loan.

The complainant made eight promissory notes, payable to the order of the insurance company, each secured by a conveyance of one of the said sublots to Hooper in trust.

About October, 1879, the complainant in a similar manner applied for another loan and the defendant company agreed to loan him $1,700 upon the security of each of six other of the said sublots fronting on S street, numbered from 18 to 23, inclusive. Separate notes were made and deeds of trust executed in the same manner and form as in the case of the first loan.

631 About February, 1880, upon similar application, the complainant procured from the defendant company a further loan of $9,000, for which he gave three notes of $2,000 each and one for $3,000 and executed separate deeds of trusts of sublots 89, 90, 91, and 100, fronting on 16th street.

At the dates of these loans on the property in square 177 the complainant was indebted to the defendant company for loans previously made to him and for which the company held his notes secured by deeds of trust of other property, and one of the conditions of the loans made in square 177 was that all interest due upon notes of the complainant held by the company at the dates of these loans should be deducted from the amount of the loan and retained by the company.

Another condition of the loans in square 177 was the purchase by the complainant from the company of other real estate in this city, designated in this proceeding as the two "Archer houses" and the "Howard house." The cash payments for these purchases were to be deducted from the loans made in square 177, and for the balance of the purchase-money the complainant gave his promissory notes to the company secured by deeds of trust of the property so purchased by him.

At the respective dates of the three loans in square 177 the company deducted from the amount of the loan the interest upon the

notes of the complainant then held by the company and the cash payments for the property purchased by the complainant, as above stated, and remitted to Hooper for delivery to the complainant drafts for the balance of the loan payable (with the exception of a draft of $87.65 of the third loan) to the order of the complainant.

It appears in proof that the drafts above named when delivered by Hooper to the complainant were endorsed by the latter and delivered to Hooper, to be disbursed by him in payments to the complainant or on his account as the improvements on the lots included in the deeds of trust progressed and were completed.

632 On the 25th of February, 1880, the complainant, by deed absolute in form, conveyed to the defendant Hooper all of the property which had been purchased by the former in square 177 (excepting two sublots, 87 and 88, which were not included in either of the deeds of trust) and the property purchased from the company and known as the "Archer houses and the Howard house."

It appears that the defendant company was not consulted with reference to the change of title and had no knowledge of it until about eighteen months after the conveyance was executed and recorded.

Hooper took possession of the property so conveyed to him and proceeded with the construction of the houses, all of which, with one exception, were at the time in an unfinished condition, but was unable to progress with the work by reason of the want of means.

In October, 1881, Hooper communicated to the company information of the transfer to himself and of the existing condition of the property and its needs. At this time a large amount of taxes and assessments was due; also a considerable portion of the original purchase price for the ground in square 177. There were several other trust encumbrances besides those to secure the company, as well as mechanics' liens and judgments, and no part of the principal indebtedness of the complaint to the company had been paid.

The company then agreed to loan to Hooper the money necessary to complete the improvements, cancel all of the indebtedness, release all of the existing trusts, and discharge all other encumbrances, for which Hooper was to give his promissory note in an amount sufficient for all of these purposes, secured by deed of trust of all the property. A note was given by Hooper in the sum of $71,000, dated November 1, 1881, and secured by a deed of trust to Frank H. Smith.

The company thereupon cancelled the notes and indebtedness of the complainant and released the trusts that had been given to secure the same.

633 Mr. Frank H. Smith, a real-estate agent of this city, was then employed as agent in charge of the property and to attend to the completion of the houses and their sale and rental.

Pending this condition of affairs the complainant brought his bill in this cause, seeking to hold both of the defendants as trustees for the complainant as to this property.

The order of reference specifies thirteen accounts to be ascertained and stated.

These several statements of accounts are contained in the schedules herewith, designated from A to N, inclusive.

In ascertaining the value of the several parcels of ground in square 177 at the respective dates named in the order I have taken the fair average of the estimates of witnesses produced on either side, considering their knowledge, experience, and opportunities. The condition of the abutting streets at these dates is an important item, that condition, especially as to 16th street, having been materially changed and improved within the period covered by this statement of accounts. The opening designated as Swann street is still incomplete as a public highway, being of uneven grade and subject to obstruction of private ground not dedicated to the uses of a street.

As to the value of the improvements on the lots in this square at the several dates named, excepting that of the 10th schedule (K), there are serious difficulties in the way of a satisfactory ascertainment. The houses were unfinished and in various stages of construction, from mere excavation to a state nearing completion, and while the complainant's witnesses undertake to state the values of the improvements as they stood, they generally do so by giving their estimate of the probable value of the houses if completed and then the probable cost of their completion. The latter deducted from the former gives their idea of the then existing values. The force of this testimony is weakened by the conflict of evidence as is the precise condition of the houses and the work and material necessary to their completion.

634 Upon the call of the defendants the complainant furnishes a statement of the cost of labor and material expended and used in the construction of these houses at the several dates, which is modified and explained in the testimony of his witnesses. This statement and testimony, however, includes the cost of two other houses, which were being simultaneously constructed by the complainant on 16th street and which were not included in any of the deeds of trust or in the conveyance to Hooper and are not in controversy in this proceeding. The cost of these two houses is so mingled with that of those which are the subject of this inquiry as to be incapable of accurate separation.

The best that can be done in this condition of the proof is to take the cost as given and add a reasonable profit for the owner, taking the aggregate as the estimated value of all the houses at the given dates.

The order of reference directs in some instances that the values of the improvements be given separately, but it will be readily seen that as the houses were not in the same condition and separate accounts of cost were not kept as to each it is not practicable to give the information called for.

All of the evidence tending to show the value of the improvements at given dates (excepting at the date of Schedule K) or the cost of the same is elicited from the complainant's witnesses, the defendants not being able to furnish any proof of the said costs or of the condition of the work at these dates or what labor and

material was necessary to the completion of the houses except by showing what was expended upon them after the transfer to Hooper.

It will be observed in Schedule C that the amount expended by the defendant Hooper and the defendant company in the completion of the houses after the transfer to Hooper is in excess of the amount estimated by the complainant's witnesses as necessary for that purpose. It appears that changes were subsequently made in
635 the designs of the houses and in the plumbing, location of bath-room, &c., which increased the cost to some extent.

By consent of the parties the subject-matter of Schedule C is limited to the loans made on the security of the 16th and S street property.

The next direction of the order of reference is to state the amount of money paid out by the defendant company on these loans and the amounts and particulars of the credits or payments other than cash.

This statement appears in Schedule E, in which is given, first, the several drafts remitted by the defendant insurance company to the said Hooper in this city on account of the loans made by the company to the complainant.

There is in this reference some controversy as to the receipt of these moneys by the complainant, and the proof shows that while all of these drafts, with a single exception, were made payable to the order of the complainant, they were generally endorsed by him and turned over to the defendant Hooper to disburse the amount of the draft for or on account of this property.

It is contended on the part of the complainant that Hooper was the agent of the defendant company, and that the latter should be credited only with the amounts that reached the hands of the complainant or which are clearly shown to have gone into the property in question.

The order of reference simply directs me to state the amount of money paid out by the defendant company, and in my view the sending of the drafts in the manner above stated and their delivery to the complainant constituted payments within the meaning of the order of reference.

In this schedule I have then stated the particulars of the several credits other than cash claimed by the defendant company as credits on the said loans.

It appears in proof that prior to the transactions between the complainant and the defendant with relation to the property in square 177 there had been some other matters of negotiation between them, in which the defendant company had loaned to the complain-
636 ant moneys upon the security of other property, and that it was agreed between these parties at the time of negotiating the loans upon this property in square 177 that the interest which had accrued and was unpaid upon this pre-existing indebtedness should be retained by the defendant company out of moneys loaned or to be loaned upon the security of this property.

Again at the date of the making of the second and third loans

upon this property interest had accrued upon the indebtedness above mentioned and upon the loans already made upon the property in 177, which was also retained in like manner; in other words, at the making of each of these loans, interest at that time due from the complainant to the defendant company upon these or other loans was by agreement to be retained by the company and treated as if so much money had been paid or advanced to the complainant as part of the loan to him, and by him immediately repaid to the company on account of the said interest.

As a part of these negotiations of loans upon the security of the property in square 177, the complainant agreed to purchase from the defendant company three other parcels of real estate in this city, for which he was to pay a certain portion in cash and for the remainder give his promissory note secured by deeds of the said property in trust.

In the testimony in this cause these parcels of property are commonly designated as the two Archer houses and the Howard house. The portions of this purchase-money which were to have been paid in cash were retained by the defendant company from the amounts loaned to the complainant in the same manner as the interest above described.

This portion of the order also requires a statement of the then fair value of the parcels of real estate said to have been received by the complainant as a part of said loans.

This real estate consists of the three parcels just above described, and I have stated in Schedule E its fair value at that time.

637 A further requirement of the order is a statement of the amount of interest then properly chargeable against the complainant and reckoned as payment on account of the defendant insurance company.

In compliance with this I have stated in the same schedule the amount deducted from the first loan, that of June 4, 1879, as interest due and properly chargeable against the complainant on account of five notes of his then in possession of the defendant company, each for the sum of $2,250.

I have then stated the amount of interest due upon the several sums of indebtedness of the complainant to the 25th of February, 1880, and added a calculation of the amount which has been claimed by the company and deducted from the loans and that which was actually due on the date mentioned, showing an excessive deduction of $555.76.

The explanation of this discrepancy is found in the fact that in the deductions made on the 17th day of February, 1880, the date of the third loan in square 177, by agreement of both parties the interest on all of the indebtedness was computed to the maturity of the semi-annual period, which extended beyond the said 17th day of February about two months.

The next direction of the order is to state the account between the complainant and the defendant company and Hooper, as its agent, as it stood on the 25th of February, 1880.

This statement will be found in Schedule F and exhibits the notes

of the complainant then held by the defendant company and secured by the conveyances of the property included in this controversy.

At that date the company had also in its possession five other notes of the complainant, each for $2,250, secured upon other property and not involved in this proceeding.

The company had retained from the several loans to the defendant as interest claimed to be due and owing, but in excess of the amount actually due and owing at the time, the sum of $555.76, which sum had been so retained by agreement between the parties as interest to accrue by a future given date.

638 The state of the account between the complainant and the defendant company therefore at that date was an indebtedness of the complainant to the company evidenced by the promissory notes enumerated in this schedule, subject to a credit of the excess of interest deducted and retained as above stated.

The state of the account between the complainant and the defendant Hooper is then shown in this schedule as the same is ascertained and made up from the proofs in this proceeding.

Hooper received from the complainant the several drafts which had been sent by the company as or on account of loans to the complainant and as enumerated in Schedule E, excepting the small draft of April 15, 1880, for $87.65.

The disbursements made by him on account of the complainant and of the work in controversy to the 25th of February, 1880, *is* ascertained as accurately as may be done from the various depositions and exhibits in the cause, and a balance is shown in the hands of Hooper at the date named, being the proceeds of these drafts unexpended.

It should be stated here that Hooper subsequently paid off encumbrances and liens upon the property existing at this date, and otherwise disbursed on account of the property, in excess of his receipts therefrom, an amount greater than the balance in his hands as shown by this schedule.

In Schedule G, pursuant to the 7th direction of the order of reference, I have stated the fair value of the property conveyed to the defendant Hooper by the complainant of the 25th of February, 1880, as ascertained by the depositions of the witnesses and the exhibits in this cause.

The order directs that this value be set forth particularly, house by house, but there is no accessible evidence sufficient to establish the separate values of these houses on 16th and S streets at the date named.

I am next directed to state the amount expended by the defendant company, or Hooper as its agent, or by Hooper on his

639 own account upon said houses and each of them after the 25th of February, 1880, and the sums paid by either of said defendants on account of taxes.

This statement will be found in Schedule H.

The amount stated here as expended by the company does not include an item of $2,250 paid to their agents in this city, F. H. Smith & Son, for their services in connection with this property.

I am next directed to state the amount collected or received by Hooper or the insurance company or its agents on account of rent from each and all of said houses after the 25th of February, 1880.

This statement will be found in Schedule I, in which the collections of rent by Hooper are stated separately as to the respective houses.

The receipts of rent by the defendant company or its agents, F. H. Smith & Son, are given in gross, as the ascertainment of the proceeds of each house would be a work of considerable difficulty and could not well be given with accuracy.

In connection with the receipts of rent by these parties I have stated the aggregate of their expenditures for the current maintenance of the property.

Schedule K contains the statement required by the 10th direction of the order of reference, showing in detail the sales of several of these houses, with the dates, prices, and purchasers, together with a statement of the houses and lots unsold and the present value of the same.

In estimating the value of the unimproved ground in Swann street I have taken into consideration the condition of the street in this square as not available for the purposes of a highway and subject in its plan or proposed route to obstruction by a projecting private lot.

The house known as one of the Archer houses on lot 14, in square 722, has been sold, but the said sale was made subject
640 to a deed of trust to secure an indebtedness of $1,800, which is now held by the defendant company, and this property represents that value and is therefore included in this schedule.

In Schedule L, I have stated, as required by the 11th direction of the order of reference, the account between the company and Hooper in respect of these several transactions.

This amount is ascertained from the evidence and data furnished by the defendants and contained principally in Exhibit A to the deposition of the witness M. V. B. Edgerly.

I am directed to state the amount of money paid by the complainant from sources other than the loans by the defendant company on account of the purchase of the said real estate and the improvements thereon up to February 25th, 1880.

So far as this account can be stated from the evidence at hand it will be found in Schedule M, in which I have given the total amount paid by the complainant and noted in connection therewith the fact that this expenditure includes two houses which are not in controversy here, and that such expenditure cannot be separated from the expenditures upon the other house; also the additional fact that a considerable portion of the money expended by the complainant was the proceeds of loans made by him and secured by encumbrances on the property, which were afterwards paid and discharged by the defendant Hooper or the company.

Schedule N contains a statement, as required by the 13th direction of the order of reference, of the liens and encumbrances upon

said real estate on the 25th of February, 1880, and the payments on account thereof made by the defendants subsequent to that date.

JAS. G. PAYN, *Auditor.*

641 SCHEDULE A.

Value of the Several Parcels of Real Estate at the Time — the Several Deeds of Trust from the Complainant to Hooper.

First deed of trust, June 4th, 1879.

Lots 92 to 99, inclusive, 11,600 square feet:		
Value of ground	$5,428 00	
Cost of improvements	4,758 18	
Add 10 per cent.	475 82	
Total		$10,662 00

Second deed of trust, October 18th, 1879.

Lots 18 to 23, inclusive, 10,295½ square feet:		
Value of ground	$3,033 50	
Cost of improvements	4,318 00	
Add 10 per cent.	431 80	
Total		$7,783 30

Third deed of trust, February 17th, 1880.

Lots 89, 90, 91, and 100, 5,950 square feet:		
Value of ground	$2,927 00	
Cost of improvements	5,450 00	
Add 10 per cent.	545 00	
Total		$8,922 00

JAS. G. PAYN, *Auditor.*

642 SCHEDULE B.

Value of the Several Houses then Built or in Process of Erection on the said Lots Respectively on the 25th of February, 1880.

Cost of construction of all of the improvements on these lots at this date	$19,164 63	
Add as reasonable profit to the builder 10 per cent.	1,916 46	
Total		$21,081 09

JAS. G. PAYN, *Auditor.*

SCHEDULE C.

Amount of Money Required February 25th, 1880, to Complete the said Houses Respectively.

House on lot	89	$216 67
" "	90	216 67
" "	91 finished	
" "	92	216 67
" "	93	216 67
" "	94	250 00
" "	95	250 00
" "	96	250 00
" "	97	500 00
" "	98	550 00
" "	99	900 00
" "	100	2,500 00
" "	18	430 00
" "	19	363 33⅓
" "	20	383 33⅓
" "	21	383 33⅓
" "	22	383 33⅓
" "	23	383 33⅓
Total		$8,393 35

643 *Amount Actually Expended by Hooper or the Defendant Company in the Completion of the said Houses.*

Expended by Hooper	$3,965 50
Expended by the defendant company	20,298 25
Not including amount paid Smith & Son	2,250

JAS. G. PAYN, *Auditor.*

SCHEDULE D.

Amount of the Several Loans Made by the Defendant Insurance Company to the Complainant and the Security Taken at the Time for Such Loans Respectively.

June	4th, 1879.	Deed of trust of lot 92	$2,000
	" " "	93	2,000
	" " "	94	2,000
	" " "	95	2,000
	" " "	96	2,000
	" " "	97	2,000
	" " "	98	2,000
	" " "	99	2,000
	Total at this date		$16,000

October 18th, 1879.	Deed of trust of lot 18		1,700	
	" " " 19		1,700	
	" " " 20		1,700	
	" " " 21		1,700	
	" " " 22		1,700	
	" " " 23		1,700	
	Total at this date			$10,200
644				
February 17th, 1880.	Deed of trust of lot 89		$2,000	
	" " " 90		2,000	
	" " " 91		2,000	
	" " " 100		3,000	
	Total at this date			$9,000
	Total of all			$35,200

JAS. G. PAYN, *Auditor.*

SCHEDULE E.

1. *Amount of Money Paid Out by the Defendant Insurance Company on said Loans.*

1879, June 4.	Amount of draft	$7,418 50	
July 9.	" "	7,200 00	
Oct. 17.	" "	4,105 08	
Dec. 14.	" "	4,453 58	
1880, Feb. 17.	" "	6,750 00	
Apr. 15.	" "	87 65	
	Total		$30,014 81

2. *Amounts and Particulars of the Several Credits or Payments Other than Cash Claimed by the Defendant Company to Have Been Proper Credits to it on the said Loans.*

Int. due Jan. 1, 1879, on 5 notes of $2,250 each							$581 50
" July 1, 1879, on the same							578 26
" Dec. 4, 1879, on 8 notes of $2,000 each							
" " " " on 6 "					1,700	"	
" " " " 1 "					2,760		
" " " " 1 "					1,800		$646 42
" April 17, 1880, on 8 notes of 2,000 each							
" " " " 6 "					1,700	"	
" " " " 1 "					2,760		
" " " " 1 "					1,800		
" " " " 1 "					3,000		
" " " " 3 "					2,000	each	
" " " " 1 "					3,700		$1,412 35

645	July 9, 1879, cash payment on two Archer houses sold to complainant	$800 00	
	October 17, 1879, payment on same	416 66	
	February 17, 1879, payment on 6th street on Howard houses	750 00	
			$1,966 66

3. *The then Fair Value of the Parcels of Real Estate said to Have Been Received by the Complainant as Part of said Loans.*

Lot 14, square 722, Archer house	$2,983 33	
Lot 15, " " " "	2,216 67	
Howard house, 6th street, N. W.	4,266 67	
		$9,466 67

4. *Amount of Interest then Properly Chargeable Against the Complainant and Reckoned as Payment on Account of the Defendant Insurance Company.*

Due January 1, 1879, on 5 notes of $2,250 each, and deducted from loan of June 4, 1879	$581 50	
Due July 1, 1879, on same notes	578 26	
Interest on 8 notes of $2,000 each from June 4, 1879, to February 25, 1880	927 99	
Interest on 6 notes of $1,700 each from Oct. 18, 1879, to February 25, 1880	287 86	
Interest on loan of February 17, 1880, $9,000, from its date to Feb. 25, 1880	16 00	
Interest on note of $2,760 and note of $1,800 from June 4, 1879, to Feb. 25, 1880	264 48	
Interest on note for $3,750 from Feb. 17, 1880, to Feb. 25, 1880	6 68	
		$2,662 77
Amount of interest claimed by the company and deducted from the loans	$3,218 53	
Amount actually due	2,662 77	
Excessive deduction	$555 76	

JAS. G. PAYN, *Auditor.*

646 SCHEDULE F.

1. *State of the Account between the Complainant and the Defendant Company on the 25th of February,* 1880.

The company held notes of the complainant as follows:

8 notes dated June 4, 1879, each for $2,000	$16,000
6 notes dated Oct. 18, 1879, each for $1,700	10,200
3 notes dated Feb. 17, 1880, each for $2,000	6,000

1 note dated Feb. 18, 1880, for	$3,000	
1 note given for lot 14, square 722	2,760	
1 note given for lot 15, square 722	1,800	
1 note given for the Howard house and lot	3,750	
In all		$43,510

The company had also at this date 5 other notes of the complainant, each for $2,250 (not now in controversy), $11,250.

The company had retained from the several loans to the defendant as interest claimed to be due and owing and in excess of the amount actually due $555.76.

2. *State of the Account between the Complainant and the Defendant Hooper on the 25th of February*, 1880.

Hooper received from the complainant the several drafts sent by the company as enumerated in Schedule E, excepting the one of April 15, 1880		$29,927 16
He disbursed on account of the complainant and the work to February 25, 1880		22,099 90
Balance on hand		$7,827 26

Hooper subsequently paid off encumbrances and liens on the property existing at this date and otherwise disbursed on account of the property in excess of his receipts therefrom an amount greater than the balance in his hands above stated.

JAS. G. PAYN, *Auditor*.

647 SCHEDULE G.

The Fair Value of the Property Conveyed to the Defendant Hooper by the Complainant on the 25th of February, 1880.

The value of the 16th-street and S-street houses is given in Schedule B as			$21,081 09
Value of ground on the 16th-street front, 17,550 square feet, at 50 cents	$8,775 00		
Value of ground on the S-street front, 10,295½ square feet, at 25 cents	2,573 87		
Value of lots on Swann street, 9,780 square feet	1,333 00		
		12,681 87	
Value of Archer house and lot 14	$2,983 33		
" " " " " 15	2,216 67		
		5,200 00	
Value of Howard house, 6th street		4,266 67	
Total			$43,229 63

There is no accessible evidence sufficient to establish the separate values of the improvements on 16th and S streets at this date, as required by the order of reference.

JAS. G. PAYN, *Auditor.*

SCHEDULE II.

Amount Expended by the Defendant Company or by Defendant Hooper upon said Houses and Each of Them After the 25th of February, 1880, Together with all Sums Paid by Either of said Defendants on Account of Taxes upon said Property.

Amount expended by Hooper upon the four north houses on 16th street, not including that occupied by Hester, as per Exhibit 2 with examiner's depositions			$3,965 50
648 Amount expended by the company, as per statements filed by F. H. Smith with the auditor and returned herewith			20,298 25
The amount of $2,250 paid by the company to F. H. Smith & Son for their services is not included in the above.			
Taxes paid to June, 1882:			
By Hooper	$191 80		
" the defendant company	32 78		
" F. H. Smith & Son	3,777 94		
			4,002 52
Taxes paid from June, 1882, to Sept., 1886:			
By the defendant company	$2,794 54		
By F. H. Smith & Son	1,000 41		
			3,794 95
Total			$32,061 22

JAS. G. PAYN, *Auditor.*

SCHEDULE I.

Amount Collected or Received by Defendant Hooper or by the Defendant Company or its Agent on Account of Rent from Each and All of said Houses after the 25th of February, 1880.

By Hooper:		
From Howard house, 1414 6th street		$484 25
" Archer house, Mass. Ave.		479 70
" 1603 S street		282 15
" 1605 S street		208 84
" 1818 16th street		245 25
Total gross receipts		$1,700 19

649 Expenditures for repairs, water rent, and taxes.... $313 61

By F. H. Smith & Son:

Gross collections of rent, as per deposition and exhibits. 10,751 00
Expenditures by this firm on account of current maintenance of the property, as per statements filed and deposition 3,887 73

JAS. G. PAYN, *Auditor.*

SCHEDULE K.

Statement of the Sales of the said Houses.

Date.	Property.	To whom sold.	Price.	Paid.	Unpaid.
1882.					
March 29	1613 S St.	Wm. Breemer..	$3,000 00	$2,220 00	$780 00
" 29	1611 S St.	Charles Brandt .	3,000 00	3,000 00	
" 29	1609 S St.	A. H. Voss	3,000 00	1,650 00	1,350 00
" 30	1607 S St.	J. H. Robinson.	3,000 00	1,710 00	1,290 00
June 1	1605 S St.	E. P. Lamson .	3,000 00	650 00	2,350 00
May 1	1414 6th St.	Wm. M. Hodges.	3,500 00	3,500 00	
June 1	Lot 100, sq. 177.	J. J. Reynolds .	7,500 00	7,500 00	
" 1	" 99, " " .	" " .	3,600 00	3,600 00	
" 1	" 18, " " .	" " .	3,300 00	700 00	2,600 00
1886.					
March 16	" 15, " 722.	Minna Wright .	3,200 00	790 00	2,410 00
	Total.	.....	$36,100 00		$10,780 00

Statement of Houses and Lots Unsold and the Present Value of the Same.

Lots 89 to 98, inclusive, in sq. 177, and the houses thereon (10), $3,750 each $37,500 00
6 lots on Swann street, containing 9,875 sq. ft., at 40 cents per foot 3,950 00
650 Lot 14, sq. 722 (Archer house), was sold under a second deed of trust, the purchaser assuming the indebtedness to the defendant company under first deed of trust of 1,800 00

JAS. G. PAYN, *Auditor.*

SCHEDULE L.

Account of William R. Hooper with the Massachusetts Mutual Life Insurance Company.

DR.

To amount of the several notes of Robert A. Balloch secured by trusts of the property described in this proceeding (exclusive of the $1,800 note secured on lot 14, square 722) $41,710 00
To interest on these notes to November 1, 1881..... 3,779 30

To other disbursements for the completion of houses, payment of taxes, insurance, cost of repairs, payment of liens, sundry expenses, commissions to September 1, 1886, &c., as set forth in detail in Exhibit A to deposition of M. V. B. Edgerly		$38,503 84
		$83,993 14
To interest on the above-mentioned sums to September 1, 1886	$22,439 54	

Cr.

By amounts received as proceeds of sales, rents, &c., to September 1, 1886, as per exhibit above mentioned			48,078 57
651 By interest to September 1, 1886	6,256 74		
	$16,182 80	$35,914 57	
Add balance of interest Sept. 1, 1886		16,182 80	
Total balance Sept. 1, 1886		$52,097 37	

JAS. G. PAYN, *Auditor.*

SCHEDULE M.

Account of Money Paid by the Complainant from Sources Other than the Loans by the Defendant Company on Account of the Purchase of the said Real Estate or the Improvements Thereon to the Date of the Conveyance to Hooper, February 25, 1880.

The total amount paid by the complainant on account of the ten lots on 16th street and improvements on the same from sources other than the loans made by the company, as appears in evidence, is	$12,552 28

Two of these houses are not included in this proceeding, but the portion of this expenditure that went into them cannot be definitely ascertained from the proof. It may be approximated as something over one-fifth.

Again, a considerable portion of the money expended by the complainant was realized from encumbrances placed on the property by the complainant and afterward paid by the defendant Hooper or the company.

JAS. G. PAYN, *Auditor.*

652 SCHEDULE N.

Statement of the Liens and Encumbrances upon the Several Parts of said Real Estate on the 25th of February, 1880, and Payments on Account of Same by the Defendants or Either of Them Subsequent to said Date.

Liens and encumbrances February 25, 1880:

Eight deeds of trust of property in square 177 to secure the Massachusetts Mutual Life Insurance Company, each $2,000		$16,000
Six deeds of trust of property in square 177 to secure the same, each $1,700		10,200
Three deeds of trust of property in square 177 to secure the same, each for $2,000		6,000
One deed of trust in square 177 to secure the same		3,000
Deed of trust of lot 14, in square 722, to secure the same		2,760
Deed of trust of lot 15, in square 722, to secure the same		1,800
Deed of trust of Howard house to secure the same		3,750
Deed of trust to secure the balance of original purchase-money to Adams		5,000
Trust to W. B. Moses		1,000
Trust, Eastwood or Barber		1,200
Trust of lot 96, square 177, Mayse		400
Trust of lot 15, square 722, Mayse		400
Trust, J. D. Kitch		750
Trust, Pomeroy		300
Trust to Hooper, lots 89, 90, and 91, square 177		225
Trust to Hooper, lots 95, 96, and 97 (collateral security)		1,500
Amount secured by deeds of trust, not including int'st		$54,285
653 Amount secured by deeds of trust		54,285 00
Mechanics' liens:		
Gessford, amount claimed	$307 60	
Cotton, " "	69 90	
Clayton, " "	40 00	
Pumphrey, " "	878 00	
		1,295 50
C. C. Duncanson, judgment		100 00
Taxes and assessments		3,459 81
		$59,140 31

Payments of the foregoing by the defendants:

Indebtedness to the defendant company secured on the 16th and S street property	$35,200 00
Ditto secured on lot 14, square 722	2,760 00
" " " Howard house	3,750 00

Paid W. P. Moses, principal and interest		$1,122 65
" Pomeroy, " " "		379 55
" Eastwood, " " "		1,209 00
" Adams, " " "		5,601 54
" Mayse, principal		400 00
" Hooper, "		225 00
" Hooper, see report		1,500 00
" J. D. Kitch		254 50
" Gessford, mechanics' lien		150 00
" Pumphrey, " "		200 80
" Cotton, " "		35 00
" Clayton, " "		40 00
" C. C. Duncanson, judgment		100 00
" taxes and assessments		5,185 09
Total		$58,113 13
Interest paid by Hooper on trust indebtedness		$3,643 95
Payment by defendant of expenses of sales:		
654 Paid F. H. Smith & Son, commissions on sales		$1,077 00
Disbursements by defendant after February 25, 1880, on account of the care and preservation of the said property:		
Paid watchman for services		$69 00

JAS. G. PAYN, *Auditor.*

655 In the Supreme Court of the District of Columbia.

ROB'T A. BALLOCH
v.
THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY and WILLIAM R. HOOPER.

No. 8381, Equity Docket 22.

Filed May 20, 1887. R. J. Meigs, clerk.

(Index omitted here in printing. See general index.)

656 MAY 26, 1885.

Hearing pursuant to appointment and notice.

Present: Mr. H. B. Moulton, for complainant; Mr. J. S. Edwards, for defendants.

The auditor states that at the request of council he has examined the testimony and other proofs in this case and is prepared to consider the directions of the order of reference and hear council as to such portions of the same as they desire to make the subject of further proof in this reference.

After consultation and discussion of the order of reference and the proofs already in the further hearing is adjourned, subject to notice.

657 MONDAY, *June 8th*, 1885.

Hearing pursuant to notice.

Present: Messrs. Hinkle and Moulton, for plaintiff, and Mr. Edwards, for defendant.

SETH A. TERRY sworn and examined.

By Mr. MOULTON:

Q. Mr. Terry, you have been sworn in this case before, have you not?

A. Yes, sir.

Q. Do you reside in Washington?

A. I do.

Q. What experience have you had in the matter of building in the city of Washington?

A. I superintended the construction of seventeen houses on square 722 in 1866 and 1867, I think it was, and 1867 and 1868 the construction of six houses on square 241, and superintended the construction of these of Mr. Balloch some time in 1868 up to January 22, I think it was, 1880.

Q. Some years past you were quite largely engaged in the matter of improvements—building houses, &c.?

A. Yes, sir.

658 Mr. EDWARDS: All this is objected to as leading.

Q. State whether or not this engagement and experience enabled you to become familiar with the cost of materials and buildings in the city.

A. It did.

Q. Can you explain a little more in detail how it enabled you to become familiar with the cost of materials, &c.?

A. Well, I became familiar with the cost of brick by the thousand, the laying of brick, where they were laid, and mortar furnished, frames, mantels, plastering per yard, sash, and everything that comes into the construction of houses as materials and labor.

Q. How familiar were you with the improvements being made by Mr. Balloch on 16th street at the time he obtained the first loan from the insurance company?

A. The work had been done under my superintendence from along by the commencement up to long after that date; the first loan was made in June, 1879; the property was bought in November preceding; a certain amount of work had been done on it.

Q. Do you or do you not remember distinctly the condition of the improvements at the time these loans were made?

659 A. I remember quite distinctly.

Q. The value of the property at that time?

A. Yes, sir.

Q. Will you state the value of the parcels of real estate contained in the first deed of trust, dated June 4, 1879, given by Mr. Balloch to the defendant insurance Co.?

Objected to. Question withdrawn.

Q. Will you state whether or not you are familiar with the value of real estate in the vicinity of this property in June, '79?

A. Well, it is quite difficult to tell just what is the value of real estate; a piece of property is put up to-day and the best real-estate men in the city will testify as to its value, and it will be sold at auction to-morrow and it won't bring anywhere near what they stated. I do not remember now of any piece of property right in that neighborhood on 16th street that was sold anywhere near that time—within 6 months preceding or after. I mean the naked lot. I know what the assessor of this company assessed the property at. He assessed it less than I did.

(By Mr. HENKLE:)

Q. Do you know what people held the property at and what the general current of opinion was as to the value of property in that vicinity?

660 A. I had attended the sales, but not right in that immediate neighborhood. I know of loans upon different property in different parts of the city and what they estimated the value of the different pieces of property.

(By Mr. MOULTON:)

Q. First, have you a general knowledge of the value of property in that locality at the time?

A. I believe I have.

Q. How is that general knowledge obtained?

A. Well, from conversing with persons who had been building in that neighborhood only less than a square from there.

Q. Will you state the value of the eight houses covered in the first deed of trust on the 4th day of June, 1879?

(By Mr. HENKLE:)

Q. First give the number of the lots.

A. From 92 to 99, inclusive, in square 177.

(By Mr. MOULTON:)

Q. If there is any difference in the improvement of those houses, then give them as they relate to the house.

A. The lots? My estimate of them is at $870 a lot; 60 cents a foot.

(Mr. HENKLE:)

Q. That is what they were worth at that time?

661 A. Yes, sir. On 92, 93, 94, 95, and 96—those houses had the brick-work done and under roof, studding up and the floors being laid. The improvements on those five under roof were worth at least $1,000 apiece, making $5,000 on those five. On 97, 98, and 99 the cellars were simply excavated, and on 97 the north walk was away up, and it was left jagged down, so that there was very little of the brick-work on the south side of the house done. On the south side of that lot the wall was not more than one story

high; it was simply to protect the wall more than anything else. The improvements on 97, 98, and 99 were not more than $100 apiece. It might have been a little more on the north house and it would have been a little less on the south house, 99.

(By Mr. MOULTON:)

Q. You make, then, the total value of the improvements on this real estate at what?

A. $12,260. That is the total value of the 8 lots on which the first loan was made.

Q. Now, Mr. Terry, will you state the value of the lots and improvements covered by the second deed of trust on the 18th of October, 1879? First state the lots and giving the trust.

A. The second loan was upon lots 18, 19, 20, 21, 22, and 23 fronting on 8 street. The value of this land I would estimate at
662 45 cents a foot. The size of lot was 17 by 100, five of them, and one of them 18.1 by 100. I would say $765 per lot for all except that on the alley, and that is $810. The improvements on these houses were: They were under roof, studding up, and I think the floor was being laid in them. I am not positive about that. My impression is the floor was being laid at that time. I think the value of those improvements, according to my estimate of them, is $1,000 apiece.

Q. That makes the total value of the five lots and the improvements what?

A. $10,635 at the date of making of the second loan.

Q. Now, sir, will you state the value of lots and the improvements included in the third loan on the 17th of February, 1880, as nearly as you can?

A. The third loan was upon lots 89, 90, 91, and 100 on 16th street. The value of the land on 89 and 90 and 91 is $870 a lot; the same as the first. The dimensions of the lots are 14 feet 6 by 100. The corner lot is 1,600 feet. I think it is 16 by 100. I estimate that at 75 cents per foot; it amounts to $1,200. The improvements on 89, 90, and 91 are valued at $8,790, being $2,930 on each house.
663 They were nearly finished; plastering all done, doors all hung, and painting nearly finished; stairs all finished.

(By Mr. HENKLE:)

Q. What did they lack of finishing?

A. I think the only thing they lacked was a little painting, and I think the latrobes were not in those.

(By Mr. EDWARDS:)

Q. That is on 3?

A. That is on 3. The improvements upon lots 100 are valued at $500.

(By Mr. MOULTON:)

Q. What is the total valuation of the lots and the improvements included in that trust?

A. $10,490.00.

Q. Mr. Terry, will you state as near as you can the value of the several houses then complete or in process of erection on these lots of grounds respectively on the 25th of February, 1880, beginning with those in the first deed of trust and grouping the several houses in the order of the trusts?

A. Now, either 91 or 92 was finished; I don't know which one it was. It is numbered 1816. The land on 92 is valued at $870.

(By Mr. EDWARDS:)

Q. They all run that way, won't they?

A. Yes, sir; all eight of them, 92 to 99, inclusive. The improvements on 92 are $2,930—that is, if it is unfinished; 93, the same; 94, the same; 95, the same; 96, the same; 97 is
664 $1,000; 98, $1,000; 99, $800. On lots 19 to 23, inclusive, the value of the land is $765, and $810 is on lot 18, the same as before; No. 18, $1,990, and $1,835 on each of the others—that is, on 19, 20, 21, 22, and 23. The value of lots 89, 90, and 91 is $870, the value of the land; the corner one, $1,200, No. 100. The improvements on 89, 90, and 91 were the same as on 92, 93, and 94, $2,930 each; and if 91 was finished, No. 1816, it would be $3,130; 100, $500.

(By Mr. MOULTON:)

Q. Mr. Terry, will you state the amount of money then required to complete the said houses, respectively, on February 25, 1880?

A. On 92, $200; 93, $200; the same for 94, 95, 96, and for 97, $500; 98, $600; 99, $900; 18, $500; 19, $400, and the same for 20, 21, 22, 23; for 89, $200, and the same for 90 and 91, unless 91 is the finished one; if 91 or 92 is the finished one, it takes nothing to finish it, and for 100, $2,500.

665 WEDNESDAY, *June 10th*, 1885.

Hearing pursuant to adjournment.

Present: Messrs. Henkle and Moulton, for complainants, and Mr. Edwards, for defendant.

TERRY'S examination resumed by Mr. MOULTON:

Q. Mr. Terry, will you look at plaintiff's exhibit marked C. L. H. No. 12 and state what it is?

A. Part of this is an approximate. This is an exhibit furnished by the plaintiff showing the amount of money received from Hooper as the agent of the insurance company, together with an approximate value of the houses unsold, the price received for the houses sold, the value of the land remaining unsold——

Q. Will you state the amount of money paid by the defendant company or Hooper as its agent to Mr. Balloch up to February 25th, 1880?

A. Objected to because the witness has not said that he is able to or has any date whereby he can furnish such proof.

Q. Mr. Terry, have you any data or information that will enable you to state the actual condition of the account between the complainant and the defendant Hooper and the insurance company on the 25th of February, 1880?

666 A. I have the items credited to Hooper and the original entries from the date of the first loan up to the 19th of January, and then I have Mr. Hooper's statements of what was paid between that time and the 25th of February.

Q. Will you please give in detail the items you actually received from your original entries?

A. June 6th, 1879, $16, commission to Sturtevant; interest on $150.00 on 13th-street property, $7.50; balance of interest due on 13th street from January, $12.50; insurance renewed on two houses on 13th street, $12.50; June 7th, recording eight trusts and certificate from Ward, $19.00 ($18 for the eight trusts and $100 for Ward); cash, $300; to brick company, $300; to four insurance policies, $20,00; June 10, to Adams, $4,200; to Balloch, by check, $200 cash; 13th, J. D. Kitch, draft payable July 9, 1879, to be credited to Hooper at the time he accepted it, $700; June 14, cash, $220; June 18th, brick Co. (Holbrook), $189; 21st, cash, $125; paid to Hooper, 28th June, cash (asked for $500), $240.

Q. What does that mean?

A. Well, asked Hooper for $500 and he only gave $240; June 30th, cash, $40; July 3d, cash, $225; July 7th, order given Gen. Balloch, insurance, $20; 10th, cash, $130; July 12th, cash, $1,000; interest on three houses on 13th street, $337.50; July 19th, cash,

667 $300; 22d, order for Smith (F. H.), $26.38; same date, same party, $45.00; 26th, cash, $300; 29th, paid order of Holbrook, $300; August 9th, cash, $700; August 16th, cash, $50; 23d, cash, $30; September 6th, order given Wormley, $125; Sept. 8th, taxes on 13th street, $104.17; Sept. 8th, $10; Sept. 8th, $20; Sept. 10th, paid Stevens, of Baltimore, $200; order on Tom Smith, $425; 13th, cash, $60.00; 13th, paid bond, Mitchel's note, $27.25; 17th, order Cavely & Co., $47.64; 20th, paid for center pieces, $23; 27th, paid Stephens, of Baltimore, $100; cash, $50; Oct. 7th, cash to Stephens, of Baltimore, $200.00; 7th, cash, $50.00 and $12.00; Oct. 10th, $60.00; Oct. 15th, order of Kennedy, $57.40; same to Smith's order, charge Perry, $45; 18th, cash, $100; 23d, cash, $90.00; Nov. 6, cash paid Kitch, $200.00; Sept. 18, cash $25.00; Dec. 8th, $282.05; same date, paid order of Somerville, $94.50; 9th, order Tom Smith, $162.74; same date, nails, $14.85; 13th, order of brick Co., $1,100; Dennis Reilly, $27.00; cash, $50; 16th Dec., roof, $100; 20th, cash, $100; 27th, $25; January 2d, $80 cash; 7th, order of Smith, $33.75; order given to Kennedy for lime, $100; Jan. 10th, cash, $20; Jan'y 17th, cash, $12.00; Jan'y 19th, cash, $43.

Q. Mr. Terry, what, if any, credit are the defendants entitle- to on account of the Archer house transferred to Mr. Balloch and by him sold?

A. Under date of July 19th he is entitled to a credit of $320.85.

Q. Mr. Terry, is there any error in your statement in relation to the credit of $320.85?

A. $208.33 of this is a credit upon one of the Archer houses next to the corner, on lot 15.

668 Q. Not a payment in cash?

A. Not a payment in cash.

Q. Mr. Terry, are you familiar with the value of real estate in the vicinity of 16th and "S" streets, on Massachusetts avenue and 2d street northeast, and on 6th street between O and P northwest about the 25th of February, 1880?

A. Yes, sir.

Q. How did you become familiar with the value of the property to which I have referred?

A. Well, from my general knowledge of locations and having witnessed loans upon property.

Q. Do you know the value of the house on the 25th of February — the house on 6th street?

A. I think I do.

Q. Will you please state it?

Objected to because the proper foundation is not laid in the question.

A. $4,000, I should say it was worth.

Q. Do you know the value of the Massachusetts Ave. or Archer houses as they have been known in these proceedings?

Objection renewed.

A. Yes, sir.

Q. Will you please state it?

A. The one on lot 15 is worth $2,200.

Q. And the other?

A. Well, the title——

669 Q. Never mind about that.

Q. Worth $2,500.

Q. Which of these houses was it that had what was claimed to be a defective title?

A. The one on the corner, I think, of 2nd street. I am not positive about the number.

Q. What did you say the value of it would be if it was a good title?

A. $2,500.

Q. That includes the lot, you say?

A. Yes, sir.

Q. Well, now, are you familiar with the value of the six unimproved lots on Swan street on the 25th of February, 1880?

Objection renewed.

A. Yes, sir.

Q. What was it?

A. Forty cents per foot.

Q. Do you know the dimensions of the lot?

A. 9,875 square feet.

Q. Amounting to how much?
A. $3,914.
Q. Mr. Terry, during the construction of these houses, what relation did you bear to Mr. Balloch—what were you doing?
A. Book-keeper and superintendent.
Q. Who handled or disbursed the money in the early part of the construction of these houses prior to the obtaining these loans from the company?
670 A. I did.
Q. Then are you able to state the amount of money supplied by Mr. Balloch in the construction of these houses before he obtained the loans?
A. I could not tell you just the amount that was before he made the loans. I can tell you the amount he turned over to me that went into these houses, from the inception of them down to the time of the transfer, that I know of.
Q. From sources other than these loans?
A. Yes, sir.
Q. Well, sir, will you please state it?
A. $7,228.63.

Adjourned to Saturday, the 13th instant, at 1 o'clock.

671 SATURDAY, *June 13th*, 1885.

Hearing pursuant to adjournment.
Present: Mr. Henkle and Mr. Edwards.

Mr. TERRY's cross-examination begun by Mr. EDWARDS:

Q. What is your age, Mr. Terry?
A. In my 41st year.
Q. How long have you lived in this city?
A. Since the 1st day of August, 1865.
Q. What has been your occupation or business since you have been in Washington, given in the order of coming here?
A. I was a Government clerk from 1865 to 1872.
Q. State what your duties were, are, where you were clerking.
A. I was disbursing clerk of the Freedman's Bureau under General Balloch from 1865 up to the time he was relieved—up to the time of the transfer of the bureau to the War Department, in July, 1872. Shortly after that I went into the Second National bank as runner and collection clerk, and I remained there till in 1875 or 1876; I think, at last, being general book-keeper. During a part of this time that I was clerking in the Freedmen's Bureau I was engaged in mercantile business—flour and feed—at 1105 7th street northwest, and remained in that business up to 1875, I think;
672 perhaps 1876. In 1876, I think it was, I got my appointment as a notary public and continued to hold that commission up to some time in 1883 *and* 1884 when my commission expired, and it was about two months afterwards before it was renewed. I was out at that time, and am now notary public. In 1876, I think it was, I was elected secretary of the Territorial Saving, Loan and

Building Association and remained in that capacity till 1880, January, 1880. I had the negotiating of loans upon real estate. I did a brokerage business from some time in 1872 up to 1877, and have had more or less to do with the loaning of money upon real estate and sale of real estate from 1875 down to the present date. In 1876, I think it was, or 1877, I superintended the building of seventeen houses on square 722 for J. B. Archer. After they were finished I superintended the building of six houses for Balloch on 13th and Q, and shortly after they were completed I superintended the commencement of twenty houses on square 177. The first work I had in the supervision of building houses was of a house of my own, 1867 or 1868, on O street between 4th and 5th. I don't remember the number of the lot nor the square. I think square 511. Afterwards I superintended the erection of three houses on M street between 4th and 5th I had something to do with, I regret to say.

673 Q. You speak of superintending the construction of houses in square 722. Are those two houses, known as the Archer houses, in any way connected with that undertaking?

A. Yes, sir.

Q. They are houses that you superintended the construction of, are they?

A. Yes, sir.

Q. Prior to coming to this city, what was your occupation, Mr. Terry?

A. I had been in the army three years and came out of the service here. Prior to that I had been clerking in a dry-goods store. After I left I think I clerked there for about two to two and a half years.

Q. Where did you reside?

A. Monticello, New York.

Q. And where did you reside in this city when the houses that were in course of erection in square 177, involved in this suit, were being built?

A. At the corner of Q and 13th.

Q. In one of the houses that you had superintended the construction of for Balloch?

A. Yes, sir.

Q. How far is that from this property?

A. Five squares.

674 Q. Had you any personal experience in buying and selling property on your own account prior to the conveyance by Balloch to Hooper?

A. O, yes, sir.

Q. State what it was.

A. Well, there were three houses on M street, and the house that I lived in and built for myself on O between 4th and 5th.

Q. Had you in the vicinity of this property in square 177?

A. No, indeed.

Q. Had you in the vicinity of any of the other property involved in this suit?

A. No, sir.

Q. Then isn't your estimate of the values of the property included in the deed from Balloch to Hooper at the time that deed was executed, as well as at the dates of the three loans that we have been speaking about, by the insurance company, entirely based upon conversations with persons who had been building in the neighborhood of the property?

A. Not wholly; that together with my knowledge of the lay of the ground and the class of improvements that adjoined it.

Q. You throw into the estimate your personal knowledge, do you, independent of the conversations?

A. Yes, sir.

Q. Now, I wish you to state the names of any persons
675 with whom you had conversations or whom you had heard converse concerning the value of any of this property at the time I have mentioned.

A. Well, I conversed quite a good deal with Sterling. I do not remember now particularly. I know I talked considerably with Mr. Adams, from whom this property was purchased.

Q. Where did Sterling live?

A. I think at this time he lived on 13th near T.

Q. Did he own property in the vicinity of this square?

A. No; he did not.

Q. Had he sold or purchased any property in the vicinity of any of this property about the dates that we are speaking about?

A. No; not to my knowledge. He owned some property—well, this was simply his conversation; a conversation I had with him; it was merely his statement to me that he build these houses. I learned through others that he did build others and had an interest in them, but lost that interest. They were on Q street near the corner of 15th, I think—Q or Corcoran; I am not certain.

Q. Did he tell you what he had paid for that and when he bought it?

A. No; I could not tell now; I do not remember.

Q. Did you know what he paid for it?

676 A. No, I do not; I must have known at the time, because he told me what he lost in the property; but I do not remember that he stated to me the cents per foot he paid for it.

Q. You understood from him that he bought it as a speculation and that he lost in the undertaking?

A. He bought the property and built two houses on it.

Q. And was "frozen out"?

A. And was frozen out.

Q. Mr. Terry, was not the building of these houses in square 177 the pioneer improvement in that section of the city?

A. On that square it was. There had been some new houses built by Williams on Vermont avenue, running from T north, and a few on T street, is my recollection of that.

Q. How near was that to this property?

A. It adjoined that square on the northwest corner.

Q. How many houses?

A. Well, I should say, from memory, about eight.

Q. How large?

A. Some of them, I think, the corner one, was three-story. I think those on New Hampshire Ave. were two-story. I do not know but there were two three-story buildings.

Q. What Williams was that?

A. Joe Williams.

Q. (O, yes; now I recollect that.) I wish you to state the
677 condition of the streets around square 177 as to improvements, sewers, water mains, and grading at the time of the making of the first loan by this company to Balloch.

A. 16th street was improved; the sewers and water pipes were all down, and I think the water pipes and sewers were all on S street also.

Q. You say that 16th street was improved, Mr. Terry?

A. I mean the roadway; there was a wooden pavement on 16 street.

Q. Is it not your recollection that there had been laid a wooden pavement which was then utterly worthless?

A. No, no; my recollection is that the wood pavement was in a pretty good state of preservation; there had not been much driving along there.

Q. Hadn't been used scarcely?

A. Very little.

Q. Was the sidewalk laid in front of these houses?

A. The sidewalk was laid.

Q. Are you clear in regard to the sewers and water mains on 16th street?

A. I am.

Q. Now, state particularly the condition of S street.

A. S street. The condition of S street was that between 16th and 17th streets——

Q. In front of this property.

678 A. In front of this property it was somewhat below grade; the sidewalk had been laid there years before and laid upon grade, I suppose, and afterwards were covered up, I suppose, two or three feet under the present grade, as established by the 16th-street improvement, and going from 16th street pretty near to, well, I think as far as this property, when the roadway had been filled up, but there had been no pavement laid, and just there the road went down into a lower place, probably 2 to 3 feet below grade, and running that way until you get near to 17th street; then a gradual rise there until you strike the 17th-street grade.

Q. The 17th-street grade?

A. My recollection is the 17th-street grade.

Q. Was there a pavement on it?

A. A foot pavement.

Q. Do you know anything about sewers there?

A. They are all there; they were all there.

Q. You think they were?

A. Yes, sir.

Q. Is it not a fact, Mr. Terry, that the grading and paving of 16th

street changed the grade of S street nearly five feet, between four and five feet?

A. I could not tell you at the distance. I do not know how far it was. I know that there was no grading to be done on S
679 street at the time of the commencement of these improvements, around the west side of these improvements running to 16th street; all that had been filled up, I think, by Adams allowing people to dump in there until it had filled level with the foot-way.

Q. There was no sewer?

A. Sewer; yes, sir.

Q. Sewer below there?

A. I think that there was. I don't think there is any doubt about it, because right in the corner of that square we drained the rear of these lots by breaking into the brick-work, to allow it to drain in them.

Q. Any water main or gas?

A. I am positive about the water main. I think the water main was down, but I am not certain.

Q. Now, describe Swan St.—what its condition was, giving the width of it.

A. I do not know that I know the width.

Q. What improvements had been made in Swan street?

A. None whatever.

Q. What was the condition of its grade?

A. It was not graded at all.

Q. Wasn't it some five feet below the grade of 16th street?

A. It was; well, I do not know; I did not think they had got it that far; I should say that it was from 2 or 3 feet; it might have been as high as four feet.

680 Q. No pavement?

A. No, sir.

Q. Gas, water, or sewer?

A. I think there had never been any.

Q. Have you ever observed the plat of Swan street?

A. I do not know that I have.

Q. Do you know it to be a fact that at the west line of the lots involved in this suit, fronting on Swan street, the owner of a portion of that property never consented to the subdivision and it abruptly came to a termination there, continuing quite a distance only twenty feet wide?

A. No; I do not recollect that. I know that there was something said by Adams in regard to the jutting——

The plat is here shown witness.

Q. Go on and state what you know about it.

A. I know that Adams said there was a party there who claimed that his land jutted into Swan street. I do not know just the shape of it; never saw it before.

Q. What changes, if any, had been made, to your knowledge, concerning the improvements of any of these streets in respect of pavements, sewer, gas, or water or change of grade between the time

of the first loan by the company on the eight 16th-street houses and the time Balloch conveyed to Hooper, February 25th, 1880?

681 A. I do not remember now of any change taken place except on Swan street, where it was filled in there some.

Q. And that was taken it out of the cellars of the houses?

A. No, sir; not wholly. There was some dirt brought there by a man who was excavating for Chapman on the corner of R street, I think, and 15th.

Q. Do you know what he paid for it for that job?

A. I think Balloch paid 5 cents a cubic yard for dirt.

Q. Do you know what the whole expense of that filling was?

A. I could tell by going over the books.

Q. Immediately south of this square were the base-ball grounds, were there not?

A. Yes, sir.

Q. And there were only three blocks between it and Bound-ry street?

A. Yes, sir.

Q. In your estimate of the value of the improvements on lots 92 to 96, inclusive, fronting on 16th street, and included in the trust to secure the $16,000 or first loan at the time the first loan was made, did the cost of the improvements then on the lots enter into your calculations or estimate?

682 A. I think not. They entered into it, but I did not give the figures that they cost. I gave the value as I believed it was then.

Q. You know, do you not, what they cost up to that time, and can tell pretty closely?

A. Can tell pretty closely; yes, sir.

Q. Tell us what they cost.

(The witness is requested to prepare his answer to this question before the cross-examination closes.)

Q. How long after Adams deeded this property to Balloch were the improvements on these eight lots commenced?

A. They were commenced within, I think, 24 hours.

Q. And the date of the deed from Adams to Hooper is November 1, 1878?

A. Yes, sir.

Q. When were the houses on the lots on S street, included in the second loan, commenced?

A. I could not tell that with exactness. I suppose—I should say about the 1st of July, 1879.

Q. It was after the first loan was made?

A. That is my recollection of it.

Q. In your estimate of the value of the improvements on the S-street lots, when the second loan was made, did what they cost enter into your calculation?

A. They entered into it, but that——

Q. You also know what they cost or can come very near it, can you not?

683 A. I can.

Q. The same as in the others?

A. Yes, sir.

Q. You are requested to also furnish that before the cross-examination is closed. Now, I wish you to state when the four houses included in the last loan were commenced.

A. Well, they were commenced in November, 1878.

Q. Contemporaneous with the others on 16th street?

A. Yes, sir; the corner one. Well, the excavating was done at the same time, right through.

Q. I also ask you whether in your estimate of the value of those houses at the time the third loan was placed or made by the company the cost entered into the calculation?

A. It entered into it.

Q. You can give that also?

A. Yes, sir.

Q. And you are requested to do so, as in the other cases. You have also testified concerning the value of the improvements on the lots in square 177, involved in this suit, at the time Balloch deeded the property to Hooper. Did what the improvements then on the property actually cost enter into your calculation of the value at that time?

A. It entered into it, but was not based wholly upon that.

Q. You can tell, can you not, what they cost at that time—all of these houses?

684 A. Very near.

Q. And you are also requested to furnish that with the other answers.

Q. You undertook to, I understand, and did keep an account of all that was expended on these houses during the periods I have mentioned?

A. Yes, sir.

Q. You have that account in your possession or under your control?

A. Yes, sir.

Q. I will ask you what personal experience you have had up to the time of this conveyance by Balloch to Hooper in buying and selling real estate in the vicinity of the property covered in the deed to Hooper from Balloch. Do you not recollect or did you not take part in the purchase of certain other property in this square 177 about the date of these transactions?

A. Yes, sir.

Q. Tell us what that was and when it was.

A. It was a contract to purchase the west or southwest quarter of that square.

Q. The property, was it not, on S street, in this square immediately west of the S and 16th street houses?

A. Yes, sir.

Q. For whom and with whom was that contract or sale or purchase made?

685 A. The contract was made with Mr. Hyde, who acted for Corcoran, as I understood. I never saw Corcoran in regard to the matter.

Q. You negotiated that purchase, did you not?

A. No, sir.

Q. What did you know about it, or how do you know anything about it?

A. I saw the contract.

Q. For whom was the contract made?

A. It was made between Balloch and Corcoran, as I recollect.

Q. Do you recollect what the price was per square foot for that ground?

A. Yes, sir.

Q. What was it?

A. 25 cents per foot.

Q. Do you recollect the terms?

A. No; I do not.

Q. What do you know about—do you not recollect something about certain improvements required to be made on that ground as a condition for that purchase or before the deed should pass?

A. Well, my recollection is that there were some improvements to be made (this is simply my recollection of it, now); that after certain houses were built he was to take the purchase price of the land as security upon these houses, so much on each house; that is my recollection of it.

686 Q. No money was to be paid, but Balloch was to go on and build houses on it substantially the same as he did in respect of the Adams purchase?

A. Yes, sir; so far as the S-street houses were concerned.

Q. Balloch went on and did put some improvements on that Corcoran property, did he not?

A. He laid the basement wall of five houses.

Q. Dug the cellars?

A. Well, there was not much digging there; the west part of it was.

Q. And built the wall?

A. Built the part of the foundation walls of five houses there.

Q. Now, do you recollect how much money Balloch put into these cellars, walls, or its improvement?

A. I can tell by figuring, pretty near.

Q. About $500, was it not?

A. I do not think that much; I could not tell now; I could tell because I have all the figures.

Q. You are requested to do so at the next meeting. Do you know what Balloch did with this contract of sale of his equity in this property after putting this money in the improvements you have been speaking about?

A. After his failure to get money from Hooper, as Hooper had agreed to furnish it——

Mr. EDWARDS: Mr. Auditor, I object to the witness arguing.

687 A. On his failure to get this money from Hooper, as Hooper had agreed to furnish it, the time expired for finishing some of these houses and to putting them through to completion according to agreement. An effort was made to renew the contract and it could not be renewed at 50 cents per foot.

Q. You have not answered the question and I move, Mr. Auditor, that the answer be expunged as not relevant.

A. On his failure to renew the contract, of course he lost what he put into the thing; they were unable to——

By the AUDITOR: What became of the property?

By Mr. EDWARDS: What became of the contract concerning the equitable interest of Balloch?

A. It went back to him for the reason that he did not put up these houses.

By the AUDITOR: Went back to whom?

A. To Corcoran. He tried to renew the lease or the contract to purchase and he could not do it at fifty cents a foot.

By Mr. EDWARDS:

Q. When was that?

A. I do not remember the date.

Q. Do you know the time he had to comply to prevent a forfeiture?

688 A. No; I do not remember. I suppose I have got somewhere a copy of that contract.

Q. Do you not know, in point of fact, that he sold his equitable interest in that property?

A. No, indeed.

Q. You know nothing about it?

A. I am satisfied he never did.

Q. The construction of these houses in square 177 was based upon a system or plan, was it not?

A. Yes, sir.

Q. And an estimate of what they would cost?

A. Yes, sir.

Q. Was that plan materially changed from what it was originally up to the time that the deed was made to Hooper?

A. Not particularly. Not particularly; it might have been in some little details; I think there were a few.

Q. Not to materially interfere with the expense?

A. Not to materially interfere with the expense.

Q. Don't you know what was the estimated cost to complete those houses, made by you at the time?

A. I do not know just the figures; very near——

Q. How much a house?

A. About $1,500 or $1,600.

Mr. HENKLE: What houses are you speaking of now?

Mr. EDWARDS: All of them excepting the corner house.

689 Q. What was the estimate of that?

A. $3,000.

Q. As the work progressed prior to the deed to Hooper, did you find your estimates at fault?

A. Slightly; not very much, though; more occasioned by the delay than on the increase in the price of materials and labor.

Q. Has the property in square 177, since Balloch deeded it to Hooper to the present time, increased or decreased in value, in your judgment?

A. Well, it has increased, I think.

Q. Material changes have taken place, have they not, within the last two or three years, in the neighborhood of this property, both as respects the construction of houses and improvement of the streets, and so on?

A. I do not think there have been any improvements to amount anything that would materially increase the value of property there. The city has been that way. There have been a few houses on Swan street between 15th and 16th, I think, finished, and a few on S, running toward 16th street, but there are none on 16th street, I think, for two squares south or north, so far as I remember, that have been built since then.

Q. You know that 16th street has been overhauled and repaved with concrete since the 16th of October?

A. Yes, sir.

690 Q. Materially affecting the value of the property, in your judgment?

A. It would affect some; it would make it more pleasant to drive over.

Q. Have you been out in that vicinity during the period I have spoken of?

A. Yes, sir.

Q. Try and refresh your recollection. Do you not recollect a gentleman by the name of Groff building a large number of houses?

A. I do not recollect his building any houses on——

Q. I am not speaking of within two or three squares.

A. They were built before Balloch turned this property over to Hooper.

Q. All of them?

A. All of his T-street front.

Q. All of his improvements that he made on 16th street were made before the transfer?

A. That is my recollection, and all, nearly, of the improvements on Caroline street and 15th street were made before the transfer.

Q. You are clear about that, are you?

A. Quite clear. Yes, sir.

Q. What has been, in your judgment, the ratio of the increase in the value? Given the per cent. since February 25th, 1881, up to this time, of this property and that in the vicinity of it.

691 A. Not more than 10 %, I should not think. I don't think he could get 10 % more, sir, on his houses now than he charged then.

Q. For this property?

A. I do not believe he could get more than 10 % now. I know

what Groff sold some of his property for at the time, and I do not believe he could get a dollar more to-day than then.

Q. You testify concerning the value of the 6th-street house at the time it was conveyed to Hooper. I wish you to particularly describe this house, its location, and the character of the street improvements.

A. It is about the middle of the square between——

Q. Just designate it as known as the ma-ket square.

A. Known as the market square, facing on 6th street between O and P.

Q. The west side of the street?

A. Yes, sir; east front.

Q. Now, describe the improvements.

A. The whole square was built up—the whole of the 6th-str. front of that square. There have been probably one or two houses since, but the houses were not of such a nice class of houses as were those in the row.

Q. This house was pressed brick and three stories, with back building?

A. Yes, sir; three-story, with a two-story back building.

692 Q. To an alley?

A. To an alley.

Q. And contained how many rooms?

A. Well, I have been in it and have been from top to bottom, and my recollection was that there were about ten rooms besides bath-room; water and gas—all modern improvements—cellar.

Q. The street was improved, concrete sidewalk, sewers, gas, water mains, and all appliances necessary for the house?

A. I think so. I am not positive just when the concrete was put down, but I think it was down at this time. I know the street was in a good state of improvement.

Q. Do you know what it rented for at the time it was conveyed to Hooper?

A. $30, I think it was, a month.

Q. You say you built these two Archer houses?

A. Superintended them.

Q. So you know what it cost to build them, do you not?

A. I think very nearly.

Q. You negotiated for Archer the loan on those houses, did you not?

A. Yes, sir.

Q. How much was borrowed on them, and when?

A. Well, I could not tell that now. I can tell pretty near.

693 Upon the corner house $2,500 was borrowed, and upon the one next to that, on Massachusetts avenue, it was $1,800 or $2,000. I think $1,800 is right. I am not positive now.

Q. Do you know of any sales being made of any of these houses at or about the time that he conveyed them to Balloch in this square?

Mr. HENKLE: You refer to the Archer houses?

Mr. EDWARDS: Yes, sir.

A. I do not remember of any sales about this time. Some parties had made loans upon those houses and they were foreclosed, I think, when the interest came due and bought in for just enough to cover the loan. I think Tom Smith got his that way. Mrs. Fuller, I think, got her- in that way. I think that was about this time.

Q. Were these two house- under rent at the time when the company conveyed them to Balloch?

A. No, sir; I think not.

Q. Had they been before that?

A. I think not.

Q. Were they completed?

A. No, sir.

Q. Were you cognizant of the negotiation for the purchase of those houses by Balloch from the company at the time?

694 A. Yes, sir.

Q. Did you not negotiate the purchase yourself, so far as the details are concerned?

A. I think so.

Q. $400 was paid or agreed to be paid and deducted, was it not, in June, 1879, from cash of these houses?

A. I am not sure about the date. I know the amount is all right in July (after consulting book). The loan was made the 1st of June and the deduction took place in July, at the time of the remittance of the second part of this first loan. It was not $400 on each house there. I ought to correct that. It was $800, but upon one Hooper took off a large amount, $320, and off the other $479.15.

Q. Then, as I understand you, the payment of Balloch to the company was—(give it).

A. $320.

Q. On one?

A. And $479.15 upon the other.

Q. That was, in the manner you speak of, its actual cost to him at that time?

A. That was as he represented it stood the company in at that time.

Q. And he gave a deed of trust to secure the balance to the company, did he not, of the purchase-money?

695 A. I do not know whether he did at this time or whether the deeds were held back until the second deduction was made; I am not positive about that. He, after the second deduction, did give a deed of trust for the balance of the purchase-money.

Q. And the second deduction?

A. Amounted to $400 and something—$416.66—making in all $1,216.66.

Q. Now, don't you recollect, Mr. Terry, contemporaneous with negotiating for the purchase of this property (these Archer houses) from the company, of entering into an agreement to borrow money on the property from William Mayse on the security of this same property or either of them soon after?

A. Yes, sir; he borrowed $400 from Mr. Mayse. He was to have

borrowed this on lot 14, which is the corner one, and, on Mr. Ward bringing down the abstract of title, he discovered that it was defective and that the company had no good title; he then borrowed of Mayse $400 upon lot 15.

Q. Give the date that that money was obtained or the trust to secure it was recorded.

A. It was recorded on November 8, 1879.

Q. Was this lot 15, on which this $400 was borrowed, the lot of which the larger or lesser amount was deducted by the company?

A. The lesser amount.

696 Q. Then is it not a fact, Mr. Terry, that Balloch got money—more money—out of the transaction than he paid to the company, so far as the money is concerned?

A. No, sir.

Q. Why not?

A. Why, $300 was deducted at one time and $208 at another.

Q. I am speaking up to the time he got the money from Mayse.

A. Up to the time he got the money from Mayse; yes, sir.

Q. Mayse was secured for the $400 by the second deed of trust?

A. By the second deed of trust.

Q. And the deed to Hooper in February following was subject to both, was it not—both the Mayse trust and the trust from Balloch to the insurance company?

A. Yes, sir.

Q. Do you know what became of that property after it was conveyed and what became of this lot 15—one of these Archer houses—after it was conveyed to Hooper from Balloch, in February, 1880?

A. It was sold, I think, under the second trust—the Mayse trust—and bought in by Mayse subject to the first, and he has the property to-day, I believe; he did a short time ago.

697 Q. I understand you also that Mayse had agreed to loan, before the conveyance to Hooper, money on the other house on a second deed of trust.

A. No, sir. If the title had been all right he would.

Q. Well, that is what I mean. Well, you said he agreed. This defect that you speak of in the title of this corner house of the Archer houses, Mr. Terry, is the same defect concerning which you have heretofore testified before the examiner, was it not?

A. Yes, sir.

Q. And relates to this same state of affairs exactly?

A. Yes, sir.

Q. Do you know how the defendant insurance company became the owner of these two houses?

A. I do.

Q. State the circumstances and how long prior to their deed of houses to Balloch they acquired them.

A. They sold them under a default in interest. They bought them under the trusts, the interest not being paid. They advertised, and Hooper, as the trustee, bought them in for the company.

Q. And a deed was made by the trustee to the company?

698 A. I do not know; I suppose so.

Q. The company had the title, did it not, when they conveyed to Balloch?

A. No; I do not think they had the title, actually, of one house. They had no right——

Q. Had not a deed been executed to the company of these two Archer houses before they conveyed them to Balloch?

A. A deed, yes, sir, had been executed.

Q. Do you know what they cost the company on the foreclosure sale? How long before the deed to Balloch did the company acquire the property?

A. I do not know. I could tell you what they stated it cost them. I do not know.

Q. It was within a year, was it not?

A. I would not be positive as to that, but I think it was in the neighborhood of a year.

Q. How much did you estimate the ground on which these Archer houses stood in giving the estimate of the value?

A. I think about $300 a lot.

Q. How many square feet in each lot?

A. I do not remember. I know it was a very little amount. It was all park on the corner lot nearly. It was — triangular-shaped lot and a big yard; that I do not suppose was more than 20 to 50 square feet in the back yard.

Q. You cannot give the number of feet?

699 A. No, sir; I put the estimate of it there. I have those 2 lots.

Q. Were the streets paved or graded, sewer and gas, sidewalks, &c.?

A. The sidewalk and sewers were at Archer's expense.

Q. Were any of the houses on the block similar in construction, finish, and under rent when the deed was made?

A. Not like the corner house. The corner house was a different house from the others. The one next to that was like, I believe the whole internal construction of it, the same as these other houses on Massachusetts avenue.

Question is repeated concerning rents.

A. They were all of them rented.

Q. At what rental per month?

A. I am not certain; I think $20 per month.

Q. You have been interrogated concerning any data or information that will enable you to state the actual condition of the account between the complainant and the defendants, Hooper and the insurance company, on the 25th of February, 1880. Have you in your answer, Mr. Terry, to this interrogatory given all the data or information concerning the subject-matter of this question?

A. No, sir.

Q. Why not?

A. Because — some of it I did not think he was entitled to credit.

700 Q. Then your reason for not given it was your construction of the right of the defendant to credit for it. Is that it?

A. Yes, sir.

Q. You did not undertake, then, to give all the data or information concerning the account between these parties during this period?

A. No, sir.

Q. In reading off the items of credit to which you considered these defendants were entitled during this period you did so from a book you had before you, did you not?

A. Yes, sir.

Q. That is a book, is it not, kept by you?

A. Yes, sir.

Q. With Balloch's knowledge?

A. Yes, sir.

Q. You then being employed or acting for him?

A. Yes, sir.

Q. And it contains, does it not, entries made by you of credit to Hooper or to the company during the period stated—made from time to time or day to day—as he was entitled to have them, as you then thought?

A. Yes, sir.

Q. Did you read off, in answering the question-in-chief put to you by council for the complainant, all the credits you gave
701 as they were made to either Hooper or this company?

A. No, sir.

Q. What items have you omitted? Read them.

A. June 6th, 1879, commission, $400; June 21, commission, $2; July 12, protest, $2; cash payment on the corner house, Mass. Ave. and 2d street, $479.15; Sept. 8, to pay for trust on 13th-street house, $150; 24th October, cash to Caverly & Co. (14, square 722), $100; December 8, commission, $255; on 15, square 722, $208.33; on 14, $208.33; July 12, $320.85; Dec. 16, order, $94.50; December 27th, order to pay to Adams, $5,000. That is all.

Adjurned to Tuesday, June 16th, 1885, at 1 o'clock.

702 TUESDAY, *June 16th*, 1885.

Hearing pursuant to adjournment.

Present: Mr. Edwards and Mr. Moulton.

Mr. TERRY'S cross-examination is resumed by Mr. EDWARDS:

Mr. Terry proceeds to answer the questions asked at the last session concerning the costs of the improvements on this property in their order:

A. The first question was as to the cost of the improvements of the eight houses at the time the $16,000 loan was made; my answer is $905.04 is the cost of the improvement on each of the lots numbered 92, 93, 94, 95, and 96; 97, $188.38; 98, $22.30, and 99, $22.30. The next question is in regard to the second loan concerning the houses on S street; the cost at that time, $703 apiece. Now, the last loan; the cost of the improvements on lots Nos. 89,

90, 91 at the time of the last loan was $1,650 each; the cost of the corner house—I cannot come as near that—about $500. The 4th question was the cost of the cellar wall of 5 houses of the Corcoran property involved in the Corcoran contract. I made a mistake in testifying; there were only four foundations made there. I discovered it afterwards that there were only 4 instead of 5. The cost of these is $70 each, $280 for the whole.

703 Q. What is the aggregate sum of the total credits given by you to Hooper in your book of original entries, concerning which you have been testifying?

A. $21,380.56.

Q. Look at the paper introduced in evidence in the testimony taken before the examiner and marked Exhibit C. L. H. No. 6, and tell me what you know about that.

A. This is a statement in my handwriting.

Q. When did you make it?

A. I could not tell positively, but should say in the early part of November, 1879.

Q. You recollect that paper there well, Mr. Terry?

A. Yes, sir.

Q. And to heretofore testifying concerning it?

A. Yes, sir.

Q. Please state whether there is any difference in the items as shown by that paper down to the time it is carried, and those in the book of original entries about which you have been testifying.

A. I can only tell by an examination here. I think it is the same. (The paper and book are compared.) There is no difference.

Q. The four certain items to appear under the sum total in this exhibit of $11,378.56, and crossed out, are an approximation of certain expenses?

A. It does not appear in the total at all.

704 Q. You recollect, do you not, how this paper came to be made by you, as you have testified?

A. My recollection of it is a- I have heretofore testified, that Hooper wanted a statement of account as shown by my books, and I made this up for him from the books at the time.

Q. Did you not also compare that with a statement that he had at that time?

A. I do not know positively as to that. I think undoubtedly there was some checking off between us; but as to whether that left any difference and what that difference was, I am not positive.

Q. The first item appearing in this book of original entries kept by Hooper is under date of June 6, 1879, commission, $400; and you omitted in your testimony-in-chief concerning the statement of the account and concerning the data and information in relation to the account between Balloch and Hooper or the company on the 25th of February, 1880, to give this item, did you not?

A. I did not give it as a proper credit to Hooper.

Q. I simply asked you to state whether or not you did give it.

A. I did not.

Q. There was an understanding or agreement, was there not, be-

tween Balloch & Hooper, through you as Balloch's agent, concerning the payment of a commission to Hooper for negotiating this $16,000 loan?

705 Objected to by Moulton. Objection overruled.

A. There was.

Q. What was the rate of commission and what was the aggregate sum?

A. The sum was $400. I think it was $50 a house.

Q. Was there not also an agreement entered into in the same way concerning the negotiation of the two subsequent loans at the same rate?

A. There was.

Q. And the items that you have omitted, where the word "commission" appears, are correct, are they not, as to amounts, but were excluded by you under your view of what was a proper credit?

A. Yes, sir.

Mr. Moulton objects to all this testimony, questions and answers, relating to the subject of commissions, and the objection is overruled.

Q. You also admitted certain credits for cash payments deducted by the company on account of the purchase of what is known as the Archer houses?

A. Yes, sir.

Q. At the time you entered these credits in your book it was in pursuance of the agreement theretofore made, was it not, between the company and Balloch concerning the purchase of these houses?

A. It was.

706 Q. And the amounts of the credits as given by you are correct under the understanding or agreement?

A. They are.

Q. Give the aggregate amount of commissions credited to Hooper in your book of originals entries on account of negotiating these three loans.

Objections renewed.

A. I only have it on the first two loans, and it amounts to $655.

Q. What would be the amount on last loan?

A. $225.

Q. Explain this item, which appears as a credit under date of December 16th, order $94.50.

A. This was an order given to Somerville for plumbing materials which was never accepted or paid for by Hooper, and I gave him credit for it at the time the order was given, but afterwards Somerville presented the bill and said Hooper would not accept or pay it.

Q. And you know as a matter of fact that Hooper did not pay it?

A. Yes; I know as a matter of fact that Hooper did not pay it.

Q. Explain also the item under date of September 8th, to pay for trust on 13th-street house, $150.

A. That is a proper credit to Hooper. I think he held a trust upon one of thouse houses, and he told Mr. Balloch that it
707 would have to be paid, and Mr. Balloch, on the book, gave him a credit for it, and he charged it to him; but the reason I did not give it the other day is it is on the statement which has been furnished, but it was not given the other day for the reason that we were talking about actual money transactions or the payment of money, and that was not paid, although he was entitled to it.

Q. Was not that money actually loaned by Hooper to Balloch, for which he took as security a deed of trust on one of these 13th-street and Q-street houses that we have been talking about?

A. Yes, sir.

Q. Actually paid by Hooper to Balloch?

A. Actually loan- by Hooper to Balloch.

Q. That was prior to February 25th, 1880, was it not?

A. Prior to February 25, 1880; yes, sir.

Q. Explain also the entry under date of October 24, "Cash to Caverly & Co. (14, square 722), $100."

A. That was the plumbing upon one of the Archer houses to which the company had no title.

Q. It was money paid by Hooper on Balloch's account while he held the house?

A. Paid by Hooper upon a house for which Mr. Hooper had no title.

Q. I asked you, Mr. Terry, if it were not cash paid by Hooper on Balloch's account while Balloch held the title to the house.

708 A. I don't consider that he held the title.

Q. After the deed had been made to him?

A. Yes, sir.

Q. And before any question had arisen concerning the title, was it not?

A. Yes, sir; I think so.

Q. I also call your attention to the item under date of December 27th, "Order to pay Adams $5,000." Explain that entry.

A. This was an order given to Hooper to pay Mr. Adams $5,000; and after this transfer had been made, in conversation with his son (who was one of the executors of the estate) he said that it had not been paid, and therefore I did not include it in the credit to Hooper.

Q. Have you any knowledge, Mr. Terry, in point of fact, or had you when you omitted this item, other than what Adams' son told you, that this $5,000 had not been paid on the 25th of February, 1880?

A. Not at the time the first statement was made up; since then. I have been led to believe by the records of releases that he did pay that money.

Q. Prior to the 25th of February, 1880?

A. Prior to the 25th of February, 1880.

Q. And that being the fact, the credit is a proper one, is it not?

A. The credit is a proper one.

709 Q. Have you not omitted other items to which Hooper is entitled to credit for moneys paid to Balloch or on his account prior to the 25th of February, 1880, and of which you had information at the time you testified in chief at this audit? Try to refresh your recollection.

A. I know nothing positively except upon statements made by Balloch to me in regard to the credit on the Howard house and then the three or four items that Hooper furnished that he had paid—which he said he had paid.

Q. Give them.

A. I can give the total of them here, $979.34. The only information I have is that Mr. Hooper furnished the three payments from the 22d of January to the 25th of February.

Q. Amounting to how much?

A. Amounting to $979.34 and the credit upon the Howard house of $750.

Q. That credit upon the Howard house was the cash payment which was deducted by the company, was it not?

A. Yes, sir.

Q. Do you not recollect that Hooper loaned Balloch some money and took a deed of trust to secure it?

A. I do.

Q. Prior to the 25th February, 1880?

A. I do, sir.

710 Q. And that money, is it not, is represented by the note I now hand you, which was heretofore introduce- in evidence in this cause, marked Defendants' Exhibit?

A. It is.

Q. How much was that loan?

A. $225.

Q. Paid by Hooper to Balloch at the time to your knowledge, was it not?

A. Loaned by Hooper to Balloch at the time.

Q. Why did you not include that amount in the testimony-in-chief?

A. I had no positive knowledge that Hooper held the note then; I did not know whether it had passed from his hands and was still held against the property.

Q. Why, Mr. Terry, you recollect this note being introduced in evidence before the examiner. You were present, were you not, from day to day before the examiner?

A. Yes, sir.

Q. And when you testified in chief before the auditor the other day you knew, did you not, that the note was in evidence here?

A. I did.

Q. And it shows, does it not, that it never was endorsed?

A. Yes, it does shew that; but I have not made any change in these books; I read from these books; I have not changed these books since long before this suit was begun.

711 Q. You know, do you not, that at the date of the deed by Balloch to Hooper of February 25th, 1880, there were other

liens and incumbrances upon the property included in the deed than those held by the defendant the insurance company?

A. Yes, sir.

Q. Tell us what they were.

A. One was a trust upon lot 90 for $1,200.

Q. Give the dates first.

A. I do not know the dates of it. I know the date of its being recorded, May 12, 1879.

Q. Give the date, to whom, and the amount.

A. Trust to A. L. Barber to secure J. H. Riggles $1,200 on lot 90, square 177; lot 89 to secure W. B. Moses, to Jos. Resenbaum, $1,000, December 14, 1878. (I am not certain whether that is the date of the record or the date of the deed. I think it is the date of the deed.) The interest was 10% on Mayse. I do not know the interest upon the one to secure A. L. Barber. Lots 89, 90, 91, Balloch to George Balloch to secure Hooper $225, November 18, 1879 (date of record), is the same trust about which we have been speaking. The trust upon subs 95, 96, and 97, square 177, to G. W. Balloch to secure Hooper, recorded December 30, 1879, $1,500. No money was advanced on this trust. It was given as additional security. A mechanic's lien was filed against this property by Charles Gessford, $307.66, filed January 1, -880.

712 Q. Do you know anything about the mechanic's liens being filed on or about December 23, 1879, for a thousand and four dollars and sixty-four cents by Jacob Kitch for the use of Barber and Hamilton on lots 87 to 100 and 18 to 23 in this square, 177?

A. I do.

Q. What do you know about it?

A. I just saw it on record about a half hour ago. I think it was settled before this transfer was made. I am positive and think I can prove it.

Q. What, if anything, do you know about the judgment in favor of Duncanson, of date February 5, 1880, for $100, against Balloch?

A. I do not know of any such.

Q. Were any of the deeds of trust which you have mentioned given by Balloch on this property other than those to secure the insurance company paid by Balloch to your knowledge?

A. No, sir.

Q. How long have you been acquainted with Rob't A. Balloch, complainant in this cause?

A. Since about 1868 or 1869.

Q. Where did you first become acquainted with him?

A. He was a clerk in the Freedmen's bureau.

Q. In what business was he engaged when he bought this property from Adams?

A. He had been building some prior to that and had been in the sand business some.

713 Q. Were you familiar with his financial affairs at the time he began to build these houses?

A. Not particularly. I have known him for a number of years. I do not know just what his resources were.

Q. Who furnished the $100 to pay to Adams as the earnest money for this purchase that has been spoken of in the testimony?

A. I do not know that any $100 earnest money had been paid to Adams.

Q. You do not know who furnished it?

A. I did not think any $100 earnest money was ever paid to Adams.

Q. You do not know who furnished it?

A. I did not think any $100 earnest money was paid.

Q. You have testified concerning the amount of money that went into these houses (what is known as the 16th-street property) by Balloch from sources other than the loans made to him on security thereof by the company. You know the sources, do you not, from which he obtained that money?

A. I know part of it; I do not know that I know all.

Q. State what you do know.

A. Part of it was derived from the sale of the 13th-street property.

Q. How much from that?

A. I think about $3,300.

714 Q. Who paid it to him?

A. The purchasers.

Q. Who where they?

A. One was a party by the name of Swaringin and the other was a purchase and sale of Eichorn, and he disposed of his interest and got about $2,500 out of that, and then part of the money also came from the house on 16th street—Eastwood.

Q. One of the 16th-street houses? Now, state the amount that each of these parties paid to Balloch and when he paid them to you. You are able to state, are you not, for you kept his account?

A. No; I am not able to state the amount that was received from Eichorn, because it did not come to me. The other came, part of it, right to me direct. It was paid there to me, and either I gave the entries right along under the proper date. The other was paid to him and given to me in different amounts. I do not know whether he got it from there or other sources. I do not know, because I did not keep the account between him and this other party at all.

Q. He obtained a portion of this $7,228.63 from this loan about which we have been speaking, did he not? Also from the incumbrances that we have been speaking about which he placed

715 on the 16 and S streets property other than those to the insurance company to which you have testified, did he not?

A. No, sir.

Q. How did you get at the exact figures, $7,228.63?

A. I had a memoranda of the items.

Q. Taken from what?

A. Taken from the books.

Q. Taken from what books?

A. From this book.

Q. The book you have before you? What does that book contain as respects this item?

A. It gives you the dates of the payments by Balloch to me or the handing of the money to me to be used in this property.

Witness hands book referred to to Mr. Edwards.

A. I find an item under credit of November 1, lot 96, square 177, of $400. It has reference to the $400 upon the Mayse loan.

Q. What is the aggregate sum of the items included in this book, Mr. Terry, which you state went into these houses prior to February 25th, 1880?

A. $6,928.63.

Q. Deducting the $400 Mayse trust, which you say is an error, would make how much?

A. $6,528.63.

Q. Where do you get the other items that made up this sum of $7,228.63?

716 A. $300 of it is from Eastwood on account of the purchase of one of the 16th-street houses, and I was not aware—did not remember—that this $400 was in there.

Q. Why was not that Eastwood item included there in this account book?

A. Because that was—I cannot tell, only it came right to me—handed to me by Mr. Eastwood.

—. Give the date of the first entry appearing in this book which goes to make up this aggregate of $7,228.63.

A. November 1, 1878.

Q. And the last item is what?

A. January 19, 1880.

Q. Read the heading of this book under which these items appear (items of payments) and then read the items.

A.—

1878. November	1st,	$500.00;	March	8,	$200;	May	17,	$150.00.
"	13th,	200.00;	"	22,	200;	June	11,	500.00.
"	20th,	200.00;	"	31,	50;	Sep.	13,	600.00.
"	26th,	200.00;	April	2,	200;	Nov.	1,	628.63.
			"	19,	150;	"	1,	400.00.
December	2nd,	500.00;	"	26,	200;	"	8,	400.00.
"	21st,	200.00;	May	2,	200;	1880.		
1879. January	9th,	200.00;	"	3,	200;	July	19,	400.00.
February	11th,	200.00;	"	5,	250.			

Q. Do you say, Mr. Terry, that those moneys came into your hands directs from Mr. Balloch?

717 A. I do.

Q. And were they paid to you at the time they purport to be entered in that book?

A. They were.

Q. Did you keep a bank account at that time?

A. I did not, to my recollection.

Q. Did you keep a bank account as agent or trustee for Balloch at that time?

A. No, sir.

Q. When were those entries made?

A. They were made—well, within a few days from the date of the occurrence. They were usually made on a memorandum and carried home and copied from that into this book.

Q. Have you the original memorandum?

A. I have not.

Q. During the period that the buildings were being constructed, *on* the houses included in the three loans to the defendant company, Balloch was also building or you were superintending the building for him of other houses in this same square, were you not?

A. Two; yes, sir.

Q. Two others?

A. Two others.

Q. Were you building any houses for him or making improvements on property anywhere else during this period for Balloch?

718 A. No, sir, not to my recollection.

Q. Did you keep a separate account of your disbursements of this money that you have entered here that constitute this aggregate sum of $7,228.63?

A. No, sir.

Q. You have nothing to show where it went in shape of book accounts, have you?

A. I can show where it went, together with the amounts received from Hooper, but cannot separate one from the other.

Q. You keep no separate account?

A. No, sir.

Q. From what sources did you get the money to build the other two houses that were being constructed in this square during this time?

A. Out of the proceeds of this money, together with money that came from Hooper and the incumbrance that were upon that property.

Q. Did you keep any separate account of moneys disbursed by you for the improvement on each house in this square?

A. No, sir.

Q. How much of the money making up this aggregate sum of $7,228.63 and entered into this book (except the item of $300 that you have explained) went into construction of these other two houses?

719 A. I could not tell that.

Q. Was it not at the same ratio?

A. The same ratio; yes, sir.

Q. Then what went into those two houses did not go into these others, did it?

A. No.

Q. Then this is not a correct statement of the money that went into these houses, as you have testified, is it?

A. To get down to it "fine," I do not think it is exactly, although I think the incumbrances upon those two houses amounted to as much really as those houses cost.

Q. Is it not a fact, Mr. Terry, that during the construction of all of the houses in this square 177, which, as I understand, includes those embraced in the insurance company's three trusts and these three about which we have been speaking which were sold by Balloch, that you were in the receipt of certain moneys from the sources I speak of, namely, from cash received on the insurance company's loans, from deeds of trust placed upon the property in addition thereto, and from this source through Balloch that you have been speaking about?

A. Yes, sir.

Q. It all went into a pool, did it not?

A. Yes, sir.

720 Q. And it was expended on account of the houses, all the houses?

A. Yes, sir.

Q. It has been suggested by counsel for the complainant that in the aggregate sum of $7,228.63, which you have testified about in chief as the amount that went into these houses, paid by Balloch from sources other than these three loans, that you have not included the moneys that were expended and raised by him on these other deeds of trust thereon that we have been speaking about.

A. I have not, excepting the $400 received on the Mayse trust, as I have testified.

Q. Now, explain why you did not.

A. I suppose that you wanted to know simply the amount that Balloch had put into this property outside of any money raised upon incumbrances upon the property.

Q. You mean outside of the incumbrances that were raised by him on the property and not paid by him?

A. Not paid by him.

Q. And paid by Hooper?

A. Or the insurance company.

Q. Can you tell how much money was expended (from these sources), in point of fact, that was obtained on these loans in

721 the construction of these houses before the deed from Balloch to Hooper?

A. Yes, sir.

Q. How much?

A. $12,703.63.

Q. Give the items.

A. Ryan and Tracy, $300; Moses, $1,000; Mayse, $100, $1,200; Eastwood, $225; Hooper, $1,500; Washington Brick Machine Co., $1,250; the same, $6,828.63 by Mr. Balloch outside of this.

Q. Now, is it not a fact, Mr. Terry, that all the money that was raised on the securities of these deeds of trust was afterwards repaid by Hooper with interest?

A. No, not all of these were not.

Q. State which were not.

A. On the houses that Eastwood purchased he assumed $1,100, that incumbrance, and Hooper did not pay that, and $573.65 on the Petit & Dripps house was assumed by Pettit & Dripps and paid by them.

Q. But you have not given any testimony, have you, concerning the incumbrances on Eastwood's and Petit & Dripps' trust? They do not appear in the record up to this time.

A. But the brick from them went into these houses. You asked me if the money did not go into those houses also, and incumbrances on those houses. The brick derived from them went into these
722 houses.

Q. Well, then, you are including deeds of trust that were also given by Balloch on what is known as the Petit & Dripps house and the Eastwood house?

A. Yes, sir.

Q. And the proportionate part of all this money went into all of the houses, including the Petit & Dripps and the Eastwood houses?

A. Yes, sir.

Q. Now, did Balloch, in point of fact, pay any money to Eastwood or any of this $500 and odd dollars to Petit & Dripps?

A. No, sir.

Q. Is is not a fact, also, Mr. Terry, that Balloch did not receive, or you for him, from the several persons named as beneficiaries in these deed- of trust, the face of the notes thereby secured?

A. It is true.

Q. They were "shaved" very severely, were they not?

A. Well, quite well shaved, sir.

Q. And you are able to state, are you not, the amount actually received on each loan?

A. Yes, sir.

Q. Please tell us at the next session.

Adjourned to—

723 THURSDAY, *June 18th*, 1885.

Hearing pursuant to adjournment.

Present: Mr. Edwards and Mr. Moulton.

Mr. Terry proceeds to answer the question put at the session held on the 13th instant, as to the cost of the improvements at the date of the transfer by Balloch to Hooper, and which question was not included in the answers made by him at the last session as to the cost of such improvements at the various dates.

The WITNESS: The amount is $31,217.41, which includes part of the purchase price. I have not separated them because I did not know.

The witness is requested to separate from this aggregate amount the portion expended on the houses at the 25th of February, 1880.

Q. Are you prepared to answer the questions propounded to you at the last session concerning the "shave" or deductions from the

amounts represented by the promissory notes spoken about and secured by the deed of trust on the property?

A. I am.

Q. State what amount was actually received on account of these transactions.

A. There was no discount upon the trust to secure Moses $1,000. There was no discount upon the brick company—two loans; $35 discount upon Mayse. The discount upon Eastwood's, then, was $400 borrowed of Eastwood and a note of $440 given, and he simply held the $1,200 trust as a collateral to them. Afterwards Eastwood advanced $150 one time and $25 at another. The total
724 amount received from Mr. Eastwood was $575. I could not find the entry in regard to the Ryan and Tracy. There rate was 5% and I think $30 was charged. It was a two-months paper. The amount received from Hooper was $200.

Q. The trust to secure the amounts of $1,500 and $1,250 to the brick-machine company was a security for brick furnished by that company, was it not?

A. Yes, sir.

Q. And that they furnished brick amounting to that sum?

A. Yes, sir; that is my understanding about it.

Q. Mr. Terry, you negotiated the loans for Balloch of what you describe as the 13th-street and Q-street houses, did you not?

A. I did. I might say that all of them were through me or with my assistance.

Q. You are familiar, are you not, with these transactions and the condition of these houses at the time they were sold, as to incumbrances, &c.?

A. Yes, sir.

Q. Did the proceeds of the sales of the equities of Balloch in all of the 13th and Q streets houses, which, as I understand from the testimony, were five, go into the construction of the houses involved in this litigation?

A. No, sir.

Q. From the sales of which houses did Balloch expend (in the in the construction of these houses) money?

A. From the sales of lots 84, 85, and 87, in square 241. I do not know that all of the proceeds entered into it. Part of it did.
725 Q. To whom were those houses sold?

A. Lots 84 and 85 were sold to Rudolph Eichhorn, but the other was sold to a lady by the name of Swaringin.

Q. Which houses were sold first?

A. The Eichhorn houses.

Q. When were they sold?

A. The 31st of January, 1879.

Q. For what amount were those houses to Eichhorn sold?

A. $4,000.00.

Q. Each?

A. Each.

Q. What was the cash payment made by Eichhorn?

A. $500 cash.

Q. How was the balance paid?

A. Paid by equity in the property on L street northwest, between North Capitol and 1st street west.

Q. Did Eichhorn pay that money to Balloch or to you?

A. Paid most of it to Hooper, I think, through Chas. Handy, his son-in-law.

Q. Why was it paid to Hooper?

A. Because of interest due upon some of this property as of January.

Q. What was the amount thus paid?

A. $450, paid to Hooper.

Q. What became of the balance, the $50?

726 A. It went into this property. I don't know the items that made up the amount. I don't know as I can tell that.

Q. Then, so far as you have testified up to this time, $50 from the Eichhorn sale *when* into this property? Is that right?

A. $50 up to this time, yes; and it would be proper for me to say that on one of these houses of Eichhorn's, I don't remember the number of it, $500 was realized but a short time before, and part of that money went into these houses. I don't remember who it was got from. I only know it was part upon that house 2750, and he paid $25 upon that house to him.

Q. How long before the sale to Eichhorn was it that this sum of $500 you now speak of realized?

A. I don't remember.

Q. Have you not got some memorandum to show?

A. I have not.

Q. Who got the money?

A. Well, I am not positive as to that.

Q. You cannot say whether you or Balloch got it?

A. I cannot say.

Q. Unable to state how it was?

A. I only know it was by an incumbrance upon the property. I don't remember; if I could examine the records it might refresh my memory.

727 Q. Did you make any entry of that money in any book whatever?

A. No; not that I know.

Q. Are you able to state that all of that money went into the construction of these houses?

A. No; I am not able to testify that it did.

Q. Are you able to testify what portion of it went in?

A. I could not tell that. If I examined the record I could find out from whom the loan was made, and I could tell whether it came into my hands at all or not.

Q. But you won't undertake to say that any portion of it went into the construction of these houses?

A. I think it did, but I am not positive. I would not like to state, for my recollection is not clear in regard to the matter.

Q. But you have given a statement here of the money that did go into these houses—a statement in detail. This does not appear.

A. I don't know but what the money he received was part of those amounts that he handed to me—I could not tell that—and it is included in that amount. If it came into the property at all it came in as part of those amounts.

Q. But you cannot identify it, so far as those incumbrances are concerned?

A. No, sir.

728 Q. Now, tell us how much cash Mrs. Sparingin paid?

A. $620.63.

Q. You turn to your book and appear to have that entry there, do you?

A. Yes, sir.

Q. Was that paid under the date it purports to be paid?

A. No, sir; I do not think it was. A statement of the amount was made up by Steiger & Lieberman, who were the agents for the purchase of the property for Mrs. Swaringin. Within a few days, I think, of that time they furnished me a statement and I entered it here.

Q. You received that money in person?

A. I did, in person; yes, sir.

Q. Can you give any other sums that Balloch realized out of the sales of these houses, which went into the construction of the 16th and S street houses from what you have just stated?

A. No.

Q. You have stated that the aggregate credits given by you at the time were made to Balloch in this book of original entries—amounts to $21,380.56. I believe you have also stated that it did not include the following items:

Commission to Hooper on the 3d loan	$225 00
The loan by Hooper to Balloch of	225 00
(represented by the note that you have been speaking about), nor the three items which you obtained from Hooper, aggregating, as you state	979 34
These three items aggregate	$1,429 34

729

Now, I want you to state, Mr. Terry, if you have not got other data and other information, or if you do not recollect of other items of credit to which Mr. Hooper or this company was entitled on the 25th of February, 1880.

Mr. MOULTON: I object to the question.

A. I do not recollect of any.

Q. Look at this letter dated July 30, 1879, filed as an exhibit with the testimony taken before the examiner and marked Ex. C. L. H. No. 6, and tell me if you do not recognize it.

A. I do.

Q. I also ask you to look at another letter filed with the same testimony, marked Ex. C. L. H. No. 7 and dated Aug. 7, 1879, and state if you do not recognize it also.

A. I do.

Q. Both of those letters were written by you, weren't they?

A. Yes, sir.

Q. Now, from an examination of the contents of those letters, are you not able to state something about a payment made by Hooper to Edmonston of $400?

A. No, sir.

Q. Why do you speak of $400 as due Edmonston there?

730 A. Edmonston & Appleby were the trustees for a party by the name of Hill, sir, who had a trust upon that property. Mr. Hooper was to pay the trust off, $400 less the $150 that Mr. Balloch owed Hooper on account of the 13th-street property. In this sale of one of the 13th-street houses it only became necessary for Hooper to pay in the neighborhood of $200 or $300, for which he has credit in the book of original entries for every dollar that he did pay.

Q. Point out those items.

A.—

September 6th	$125 00
Sept. 8, taxes on 13th-street property	104 17
To pay Ward	10 00
To pay insurance, sixty days	20 00

Q. What have these items to do with what Mr. Hooper paid Edmonston & Appleby on this trust?

A. There is not an item in all this account that has cost me as much labor as this one item to reconcile on its face what seems troublesome to me. In the statement that I furnished Hooper in pencil, which has been exhibited here, and Mr. Hooper's own statement in the exhibit that he has, so far as these items —, we agree to a penny. I think there is not a cent's difference. Upon this check which he seems to have given, or a receipt that Edmonston & Appleby give for a check to Mr. Balloch of Hooper

731 delivered by Balloch to Edmonston & Appleby, I am as much satisfied as that I am living that he never paid that check other than just the credits that I have given him on this book, and that he shows by his own statement he was entitled to. Then that, I say, in the face of the other fact that Hooper's bank account book does show that a check for that amount went into the bank, was charged up against Hooper's account, I am going to help you out just that much.

Q. Now, I have asked you, Mr. Terry, what relation the three or four items that you have just read off from your book of original entries have to do with the money, if any, paid by Hooper to Edmonston & Appleby on account of this $400 matter.

A. All that Hooper did pay is what I have credited him with here.

Q. I ask you what relation it has to this item that he did pay.

A. This is part of that, as I understand it, and the balance went into Hooper's pocket.

Q. What is the date of that?

A. September 6th.
Q. Give the dates of these items again.
A.—

September 6th, order given Wormley	$125 00
September 8th, to pay off trust on 13th-Str. *13th street* house	150 00
732 To pay taxes on 13th street	104 17
To pay Ward	10 00
To pay insurance, 60 days	20 00

Q. Were those payments, do I understand you, made by Hooper for Balloch's benefit?
A. Made by Hooper for Balloch's benefit.
Q. And you say those items should be deducted from this Edmonston's receipt that I hold in my hand to the amount of $422.16?
A. Yes, sir.
Q. Wormley got money, did he not, for his $125.00?
A. Yes; he got money for his order.
Q. From Hooper?
A. From Hooper.
Q. And the parties represented by the other items also got money, did they not? He had to pay the taxes in money, hadn't he?
A. Yes, sir.
Q. And the insurance?
A. Yes, sir.
Q. Wormley was the purchaser of that property, wasn't he?
A. No, sir; a party by the name of Smith.
Q. Or rather Wormley was the agent of the purchaser?
A. Yes, sir.
Q. He made the offer, didn't he, to buy it?
A. Yes, sir.
733 Q. Look at this paper that I hand you and see if you do not recognize that, and isn't that the offer to purchase the property by Wormley that we have been speaking about?
A. This is it.
Q. And the purchase price, according to that, was $3,500?
A. $4,000 was what he got for it.
Q. This is what he offered him then?
A. That is the offer made there.

Mr. Edwards offers this paper in evidence. It is marked Defendants' Exhibit No. 1.

Q. The incumbrance upon this house at this time aggregated $3,850?
A. Yes, sir.
Q. That does not include interest then due, does it?
A. It does not.
Q. There was interest due, wasn't there?
A. There was.
Q. Can you tell how much?

A. I could not.

Q. You can tell how much was due Appleby & Edmonston from their receipt, can't you?

A. I think so. Well, I don't know whether it is $416.66 or $422.66.

The receipt from Mr. Edmonston which the witness has been examined about and which he has been referring to in his tes-
734 timony is offered in evidence and marked Defendants' Exhibit No. 2.

Q. You have stated also that you had satisfied yourself before testifying at this audit that Hooper did pay Adams, for money due on the purchase of this 16th and S property, $5,000. Don't you know also that he paid interest on one of the Adams notes, which made up this sum of $5,000?

A. I only know from his exhibit filed in the cause.

Q. That was all?

A. That is all.

Q. Then you have information to show and you have heard of nothing to the contrary, did you?

A. I have heard of nothing to the contrary; no, sir.

Q. Are you now able to give the names of any other persons from whom either you or Balloch obtained the money forming a part of this $7,228.63 about which you have been speaking?

A. Part of it he received from a party named William Frazier; just how much I do not know. I have been present with him when he has been paid money by him.

Q. What was William Frazier's business?

A. He was a railroad builder.

Q. Where did he live?

A. He lived in the Hamilton house, I think, at that time.

735 Q. He was interested, was he not, in speculation with Vanderlip, Balloch, and yourself in a railroad enterprise running through the southwestern portion of Virginia?

Objected to by Mr. Moulton. Objection sustained.

Q. What business was William Frazier engaged in at this time?

Objected to by Mr. Moulton. Objection sustained.

Q. Where did William Frazier live?

A. I think, the Hamilton house.

Q. Had he an office in this city?

A. Yes, sir.

Q. Where was that?

A. In the Corcoran building; part of the time in that building and part of the time in the Evans building, on New York avenue.

Q. Did you ever receive any money from Frazier personally that you expended in the construction of these houses?

A. No, sir.

Q. Did you obtained any money from any other source and from Balloch than from Hooper or this insurance company on account

of these loans or from the several deeds of trust about which you have testified or from the sales of the 13th and Q street houses?

A. No, sir; none that I know of.

736 Q. Did Balloch other than adding Frazier's money, to your knowledge?

A. I don't know where he receive- it.

Q. To your knowledge, I am asking.

A. O, no; I have no knowledge.

Q. How were these several amounts that you have entered in this book as received from Balloch paid to you, Mr. Terry?

A. In currency.

Q. Always?

A. I think, without an exception.

Q. Where was your office at the time?

A. In the Le Droit building, I think, most of the time, and I don't know but part of the time on F street between 5th and 6th.

Q. Where was Balloch's office, if he had any at this time?

A. I don't know that he had any, sir.

Q. During this whole period, from the time of the commencement of these houses on 16th street and S street to the time you discontinued superintending them, which was in January, 1880, you were acting, were you not, as the secretary of the Territorial Building and Saving Association?

A. I was.

Q. Were you in the receipt of a salary from any other sources than that as a notary public?

A. It was all outside of what Balloch was paying me for superintending those houses.

737 Q. How did you receive these several sums of money; direct from Balloch or by messenger?

A. Direct from Balloch.

Q. Inveriably?

A. Inveriably.

Q. Paid to you at your office?

A. Not always; sometimes at his house.

Q. What did you do with the money when you got it?

A. Well, I——

Q. Where did you put it; where did you keep it?

A. I kept it in my pocket until I paid it out. I kept no bank account, I don't think, during any of this time.

Q. You undertook to give at the first session of the cross-examination your several occupations since 1865, when you came to this city. Were you not engaged during the period of the construction of these houses in other business ventures and speculations involving large amounts?

Objected to by Mr. Moulton. Objection sustained.

Q. Were not the moneys which you state aggregated $280 expended in building the cellar walls on the Corcoran property, about which we have been speaking, received from Hooper or the insurance company or through moneys raised on the deeds of trust other

than to the company or from moneys obtained by Balloch, making the aggregate of $7,228.63, about which we have been speaking?

738 Objected to by Mr. Moulton. Objection overruled.

A. It was paid out of the funds in my hands. I don't know which source it came from; whether from Hooper or the trusts, but from one of them.

Q. From whom were the brick obtained that were used in the houses covered by the first $16,000 loan at the date the loan was negotiated?

A. From the Washington Brick Machine Company?

Q. Had the Washington Brick Machine Company been paid any money for the brick that went into those houses at the date of the negotiation of this $16,000 loan?

A. I think so, but I am not positive.

Q. You are able to state, are you not, from your books?

A. I think I can.

Q. Well, you can look and tell us.

Witness examines book.

A. $400.

Q. When was that paid and by whom?

A. November 4, 1878, $100; November 9, $100; November 13, $100; November 14, $100; all paid by me, I think.

Q. Paid in money or by check?

A. In money, I think.

Q. Who furnished the sand and lime used in the improvements on these eight houses about which we now are speaking up to the time of the negotiation of the loan?

739 A. I could not say positively as to the lime. Either it was Godey or Cammack, and the sand was furnished by different parties. Lines delivered the largest part; Schooler delivered some.

Q. Tell us what was expended on that account prior to the negotiation of this loan.

A. I could not tell you, for the reason it was all charged to the bricklayer and the bricklayer was to lay the brick at so much a thousand and furnish his own lime and sand. We have paid for it and charged it to him. I could not tell you.

Q. Then how much had you paid the bricklayer for laying the brick, which included the cost of this material, sand or lime, at the date of this $16,000 loan was negotiated?

A. It will be difficult for me to answer that question with any degree of definiteness for the reason that there were ten houses being built at the same time and the first trust only covered 5 of these houses. I can tell how much went into that work covered by the insurance company and that which was not in the Hooper trust.

Q. Then, as I understand you, Mr. Terry, you were building ten houses?

A. Yes, sir.

740 Q. And some parties were furnishing the brick and all the material and the same parties were doing the work?

A. Yes, sir.

Q. Now, have you included in the payments made to the brick machine company payments also made for brick that had been used up to that time on the other two houses?

A. Yes, sir.

Q. And those other two houses were as far advanced or further advanced, were they not, than those included in the insurance company loans?

A. A little farther.

Q. More material used and more labor required?

A. So far as the brick was concerned, but the brick-work was all finished on the houses at the time the first loan was made with the exception of bricking up an arch left between the houses to enable workmen to travel from one to the other—from one house right through the row.

Q. You are speaking now of the two houses not included in the insurance company's loans?

A. Yes, sir.

Q. And five included in the insurance company?

A. Yes, sir.

Q. Making seven in all?

741 A. There were ten houses begun; their 1st trust only covered five houses and three cellars; then there were five houses besides that were being built that were as far advanced as the five covered by the insurance company.

Q. Mr. Terry, it appears that we have been laboring under a misapprehension as to the number of houses that were in process of construction in this square 177 at the time the first loan was negotiated. Tell us how many houses were, in point of fact, in course of erection.

A. Ten houses.

Q. They all front on 16th street?

A. They all front on 16th street.

Q. And the cellars had been dug to three of those?

A. Cellars to three of those; yes, sir.

Q. The trust to secure the first loan covered eight lots, being on five houses, as you state, were roofed in, the others only the cellars being dug. Am I right?

A. Yes, sir.

Q. Now, then, does not your answer to my inquiry as to what amount had been paid to the brick machine company for brick at the time this first loan was negotiated cover bricks that had gone into all of the houses that you have mentioned?

A. Yes, sir.

742 Q. And is not confined to bricks that only went into what is covered by the insurance company trust?

A. No, sir.

Q. Now, tell us how much of that sum had been paid for brick that went into these houses covered by this insurance trust, if you can.

A. I should say half; that is a fair estimate. I don't know whether it went into the——

Q. $200?

A. $200.

Q. Now, tell us how much had been paid to the bricklayer for laying the brick, and who also furnished the mortar for these houses at that time.

Objected to by Mr. Moulton. Objection overruled.

A. $1,986 71. This is upon the ten houses.

Q. How much of that was expected on the houses included in the first loan to the insurance company?

A. I should say half, being $993.36.

Q. Who furnished the lumber that went in the construction of these houses on the eight lots covered by the first loan up to the time that loan was negotiated?

A. A good many parties—McLean, John R. Shiles, Willet & Libbey, and J. D. Kitch.

Q. Now, tell us what had been actually expended for lumber up to the time we are speaking about on these houses covered by the first loan.

743 A. $1,440.36 upon the 10 houses, half of which was upon the five covered by the insurance company's loan, being $720.18.

Q. Had the tin covering the rooves of the houses included in this first loan been placed upon the houses?

A. Yes, sir.

Q. By whom?

A. By Caverly & Co.

Q. Had any money been paid to that company on account of that work?

A. $400.00.

Q. On how many houses?

A. On the 10 houses.

Q. And how much had been paid on account of these included in this loan?

A. About one-half.

Q. You know what the cellars cost to *date*, don't you?

A. Yes, sir.

Q. You have given it concerning two or three of them; is it the same as to the others?

A. Yes, sir; as to the others, *two*.

Q. $22.30?

A. $22.30.

Q. Had the cost of digging these cellars been paid at the time this first loan was negotiated?

A. Yes, sir.

Q. In money?

744 A. In money.

Q. Were all the payments that you have been testifying

about as made prior to the negotiation of this loan actually payment- of cash to the parties mentioned?

A. Yes, with the exception of the lumber bill; I think there was an amount due for lumber; I can't tell the amount.

Q. To whom was it due?

A. Kitch.

Q. Are you able to state from your book?

A. I am not.

Q. Can you give any other items of work or material on the houses included in this first loan on account of which money had been actually paid prior to the date of the loan?

A. Yes; carpenter.

Q. How much had been expended on that account?

A. $45 a house on each of the five.

Q. Anything else?

A. Frames, which were bought of Plumley, $230.20; half of this would be upon these houses.

Q. State anything else in this connection.

A. Stair-builder, Mitchell, $206.82, half of which would be on these houses, and $19.70 to Terry.

Q. That last item was for what?

745 A. For superintending them; that is half on these houses; to the District of Columbia, $42.50; that is for surveying and tapping the main; half on these houses; $535.34 upon drawing plans, watchman, and some hardware, recording and hauling and measuring line, labor for carrying mortar and digging, cleaning brick, Boyd on foundation; half, $267.62, on these houses; I also paid out $41.05 on account of plastering, which was for the material on 10 houses; half on these; that is all.

Q. In testifying before the examiner concerning the moneys that had gone into the construction of these houses from sources other than from the loans made by the insurance company, on page 252 you testify as follows:

Q. What did you do with the money you received from him?

A. I used it in paying the men and in buying material for the 16th-street houses; most of it, part of it, I used myself. Do you recollect that?

A. Yes, sir.

Q. Tell me how much of it you used yourself.

A. $399.00.

Q. I understand that you intended to include in the sum of $399 all the moneys that you took on your own account from all sources, not confining it to the money paid to you by Balloch included in this black book?

A. Yes, sir.

Q. Didn't you testify in your examination before the examiner on cross-examination, on page 228, as follows:

746 "After my trouble I closed up the Balloch, everything. I was to have the $50 on houses as the work advanced. I got out of them, I think, some $600 or $700; the other interest Bob asked me in regard to and I told him, says I, the houses being in an

unfinished condition I could do nothing more in regard to them and want to relinquish all interest I had in them."

A. I did so state.

Adjourned to Monday, June 22d, 1885.

747 MONDAY, *June 22d*, 1885.

Hearing pursuant to adjournment.

Present: Mr. Edwards and Mr. Moulton.

The witness (Mr. TERRY) proceeds with his answer to the question propounded to him at the session held on the 13th instant as to the cost of the improvements at the date of the transfer by Balloch to Hooper, and says:

A. The cost of the improvements February 25th, 1880, on the lots upon which the three loans were made by the insurance company was $19,185.68. I discovered another credit to which Mr. Balloch was entitled that I had not named in the credits at the last session. It was for material furnished and labor performed by Pettit & Dripps, amounting to $1,875.66.

Q. Mr. Terry, in stating what was actually expended on the houses in course of erection on this property prior to and up to the 4th of June, 1879, when the first loan was made, you gave certain items and state that that was money actually paid out, with the exception of a portion due Kitch for lumber. I call your attention to an item appearing as a credit to Hooper and under date of June 13th, 1879, as follows:

13th. J. D. Kitch, draft payable July 9th, 1879, to be credited to Hooper at the time he accepted it..... $700 00

748 Can you not, by reference to this item of credit, state how much was due Kitch for lumber on the 4th of June, 1879?

A. No; I cannot.

Q. Do you not know that this $700 payment was a payment on account for lumber furnished by Kitch prior to the 4th of June, 1879, that went into these houses?

A. My impression is that all of this $700 acceptance of Hooper was—all of that lumber was furnished prior to, I think, the 4th of June, 1879; I think all of that was, but I could not state positively. I could, possibly, from the bills, but I could not get at that.

Q. And if that be so that would be a deduction, according to the ratio that you state, of $350 from the cash items that you gave, would it not?

A. Yes, sir.

The WITNESS: I think, Mr. Edwards, that all of this lumber went into the houses and went into the actual cost of the houses up to the 4th of June.

Mr. EDWARDS: So you have stated. You have undertaken to give, Mr. Terry, as I understand you, the money actually expended on account of the erection of the houses up to the 4th of June, 1879,

and you have stated that that was money actually paid out, with exception concerning the lumber to Kitch. Now, I am en-
749 deavoring to ascertain what was due Kitch for lumber, and your attention to this $700 item has been called for that purpose.

Q. Now state, from you- books or any other source of information you have, what moneys were actually expended in the erection of the houses in course of construction on the lots in square 177 between the 4th of June, 1879, the date of the first loan, and the 18th of October, 1879, the date of the second loan.

(Before answering this question the witness states as follows: $341.35 was paid to June 4th on account of the $1,500 trust to the Washington Brick Machine Co.)

A. $7,515.73 was the amount of money actually expended between the 4th of June, 1879, and the 18th of October, 1879, inclusive, on the houses involved in this suit.

Q. The second loan, Mr. Terry, included the S-street lots, did it not?

A. Yes, sir.

I want to make a correction. From this amount there needs to be deducted $280 upon the four foundations upon the Corcoran property.

Q. And the money that was paid out for these four foundations was paid between the 4th of June, 1879, and the 18th of October, 1879?

A. Yes, sir.

Q. About what time was it paid?

A. It was paid in June, July, and August and September, 1879.

Q. During this period of time, Mr. Terry, is any work be-
750 ing done on the north two houses, which were sold to Pettit & Dripps and to Eastwood?

A. There was.

Q. Now, sir, the aggregate sum which you gave of $7,515.73, does it not also include moneys expended during the same period toward improving these two north houses?

A. Yes, sir.

Q. How much did you so expend?

A. I could only approximate.

Q. Well, state what your approximate is.

A. About $200 a house.

Q. That would be about $400?

A. $400 on the two houses.

Q. Which should also be deducted, should it not?

A. Yes, sir.

Q. Now state, Mr. Terry, what was actually expended in cash towards the construction of these houses included in these three loans between 18th of October, 1879, and the 17th of February, 1880, when the last loan was made.

A. $3,119.42. I should state that this is up to the date of my book, which closed the 19th of January.

Q. Then, as I understand you, this last item includes the payment between the 19th of October, 1879, inclusive, and the 19th of January, 1880, inclusive?

A. Yes, sir.

Q. Your not having kept the books subsequent to the latter date?

751 A. No, sir.

Q. Was any portion of this money expended toward improving the two houses on the north two lots known as the Pettit & Drips and Eastwood houses?

A. Yes, sir.

Q. State how much.

A. About $100 a house.

Q. $200 in all?

A. $200 in all.

Q. I understand you, Mr. Terry, that you have given, in response to the questions covering these periods, cash actually paid out towards the improvements that we have been speaking about, with the exception of the amount due Kitch. Am I right?

A. I intend to give that amount; but I think in this amount are included, perhaps, $25 worth of orders that have never been paid—$25 and $30.

Q. Then, with this exception and the other exception mentioned concerning the lumber, your answer is that all of these sums are cash actually paid out?

A. That is my recollection of it. That is what I intended to give.

Q. You had nothing to do with the superintendence or the handling of any money that was expended toward the improving of these houses after the 19th of January, 1880, had you?

A. No, sir.

752 Q. Did Balloch, to your knowledge, or did any one on his account pay out any money toward the construction of these houses or on account of the property involved in these three loans in any manner subsequent to the 19th of February, 1880?

A. Not to my knowledge.

Q. I suppose, Mr. Terry, as this money was paid to you from time to time by Balloch, and as you received it on these several loans, you paid it out, did you not, on these houses in their construction as you received it?

A. Yes, sir.

Q. Had you any money on hand applicable to the construction of these houses on Balloch's account on the 4th of June, 1879; if so, how much?

A. That I could not state. I do not know whether I had any. I could not state positively.

Q. You also received the money on these several loans other than from the insurance company at about the date of the trusts or the dates they were recorded, did you not?

A. I think so. That would not be strictley true in speaking of

that in regard to moneys that were received from Eastwood, because it was received in three instalments for that loan.

Q. You can state when those amounts were received, could you not?

A. I could not state positively as to only one of them. I can as to the larger one.

753 Q. When was the larger amount received?

A. About the 23rd of May, 1879, $400.

Q. Mr. Terry, your building operations were first commenced on the north house, were they not, and then proceeding southward?

A. Well, the foundations were dug on the whole 10 houses at once. They commenced at the north and run the line right down 10 houses.

Q. The usual way, is it not, in building a row of houses is to begin at a certain point, and the bricklayers, after completing their work on one or more of the houses, proceed along, and they are followed by the carpenters, are they not?

A. No, sir. On building a row of ten houses they run up their lower wall of all, and next the cellar wall of the next, and the first floor joist is laid on the whole ten houses.

Q. And so with the other stories?

A. And so with the other stories.

Q. But the principal is the same, is it not, only on a more detailed scale?

A. Yes.

Q. Now, is it not a fact, Mr. Terry, that the five north houses on the 4th of June, 1879, had more than one-half of this cash that was expended to that time used on their construction?

A. I think not.

754 Q. You think that it is a fair estimate, do you?

A. I do, because all of the brick-work was done, the roof was on, the joists were in all of them, and the floors, I think, being laid.

Q. All of these three loans to Balloch by this company bore interest from the date of the notes?

A. Yes, sir.

Q. As well also the notes secured by the deeds of trust on the Archer houses and the 6-street houses, did they not?

A. I suppose they did. I don't know that I ever saw the note of the 6th-street houses. I know the Archer notes and all the others, and I presume I, in my own mind, never saw it from positive knowledge.

Q. You recollect how the interest was payable to this insurance company on the loans it made on these houses in square 177, do you not?

A. Yes, sir.

Q. How was it payable?

A. It was payable on, my recollection is, the 1st of May and the 1st of November semi-annually.

Q. What amount, if any, have you included as credit to Hooper or

to the insurance company for interest on these loans, due and payable at the time of the transfer by Balloch to Hooper?

A. The statement I made and Hooper filed as an exhibit, I credited him with interest upon the moneys advanced from the
755 date of advance up to the time of transfer; other than that no credits, so far as I remember, for interest were given him.

Q. I am speaking, Mr. Terry, concerning the testimony you have given at this audit. Any inquiry is confined to this time. What credits have you given for interest, as I have stated, in your testimony before the auditor, due and payable on the 25th of February, 1880.

A. None.

Q. Nothing had been paid out on account of the purchase price for the ground in square 177 bought from Adams prior to June 4, 1879?

A. Yes, sir.

Q. How much?

A. $200.

Q. When was that paid?

A. December 4th, 1878.

Q. Was that paid in cash?

A. Paid in cash.

Q. Had anything else been paid by Balloch for or on account of this property or the improvements prior to June 4, 1879, besides this $200 and what you have testified about as expended for improvements?

A. None that I now recollect at all.

Q. Did Balloch pay anything toward this ground between the 4th of June, 1879, and the 18th of October of the same year?

756 A. None except what was paid by Hooper and which appears as a credit.

Q. Did he between the 18th of October, 1879, and the 19th of January, 1880, other than through Hooper?

A. No, sir; not to my knowledge.

Q. How much money was received by Balloch, if any, from Pettit & Drips on account of the purchase of the north house on lot 87 at the date that deed was executed?

A. None.

Q. Did Pettit & Drips in point of fact pay any money to Balloch or to you on account of this purchase? If so, state when and the amount.

A. No; they were to furnish material and do the work. Afterwards he paid some and I paid Balloch; but it was upon this trust that was upon the house, as I have heretofore testified.

Q. And you have taken into consideration, have you not, in giv*en* the cash paid toward the construction of these houses during the period mentioned what work Pettit & Drips did for which this property was deeded?

A. No, sir.

Q. You have not?

A. No, sir; you stated cash.

Q. How much work did Pettit & Dripps do?

A. $1,875.66.

Q. And that was on all of the houses, was it not?

757 A. A large part of it was principally upon the north five houses; the three upon which the insurance company had their trust and the one which they purchased and the one sold Eastwood. There was more upon these two than upon any other with the exception of the next three.

Q. Well, how much of this bill went into the houses involved in this suit?

A. I can only give that approximately. I can give it very near—$1,297.66.

Q. Tell us how you ascertain this.

A. $185 was for the plumbing; $65 was for the front steps, making $250. The sash weights about $6.00 a house, making $12; the two front door plates, $5, and 14 windows in each house—28 windows—about $6.00; the sill making $6.00—$328.

Q. On each house?

A. No; that is on the two houses. That $328 is deducted from the $1,875.66.

Q. State more particularly how you come at this sum as the amounts that the houses included in this loan should bear, which I understand are three only.

A. Oh, no; it bears all of these, with the exception of the 2 sold, one to Pettit & Drips and the one sold Eastwood, and I am deducting the amount for those two houses out of this total bill.

758 Q. Now, then, what is the bill—the amount of the bill—on the two north houses?

A. $578.

Q. What was the condition of the north house as to incumbrances at the time it was sold to Pettit & Dripps?

A. The purchase price of the houses was $4,000. There was an incumbrance to the Washington Brick Machine Co. of $1,500. I think that was there at the time the first loan was made; at the time the deed was made to Pettit & Dripps. I don't know the date.

Q. The amount hadn't been paid for either, had it?

A. It had been realized.

Q. Prior to the deed to Pettit & Dripps?

A. Yes, sir; I think so.

Q. Are you clear about that?

A. I know; yes, sir; I am positive.

Q. How about the taxes; the taxes were not paid?

A. The taxes were not paid.

Q. Did you recollect how much the taxes were?

A. I do not. He had to pay, I believe, $300.00, he told me, before Mr. Hooper would (I think he said) "release."

Q. Do you know of any other items entering into this account in the construction of these houses which includes moneys received from Balloch on the deeds of trust other than to the insur-

759 ance company, the insurance company loans, and the sales to Pettit & Drips? (What I mean is, do you know of any other

items of money that enter into this construction account of these houses up to the 25th of February, 1880, other than these four sources I have named, to wit, money received from Balloch, from the trusts other than the insurance company you have mentioned, the loans from the insurance company, and the sale of the Pettit & Dripps house?)

A. The sale of the Eastwood house.

Q. How much did you get from that?

A. I think ——

Q. Any cash?

A. $400 in cash, I believe.

Q. When was that received?

A. It was received between the—(refers to book)—prior to the 25th of February, 1880. March 1, 1879, $100; March 29, $100; April 26, $100. I think that was all, balance being applied as a credit upon the amount due and received from him on account of that note.

Q. Do I understand that this $400, as realized on the sale of the Eastwood house, is not included in the items of cash——

A. *Is* it is included in the items of cash paid Balloch, $1,100, assumed by Eastwood, is not included in the items of cash by Balloch.

Q. Is this $400 received from Eastwood included in the
760 cash disbursements, as you have stated, made by Balloch prior to and between the dates of these three loans?

A. Yes, sir.

Q. This money, then, as I understand you, this $400 from Eastwood, moneys received on the trusts from the insurance company and from Balloch, all went into the pool?

A. Yes, sir.

Q. And from the pool were paid out from time to time?

A. Yes, sir.

Q. I wish you to give in chronological order all of the incumbrance and liens existing or placed upon the property in square 177, by Mr. Balloch, other than the trusts to secure the loans by the insurance company and the trust to secure the unpaid purchase-money to Adams.

Answer. Nov. 15, 1878; the first is $1,500 on lot 87 to Evans & Peck, to secure the Washington Brick Machine Co.

Dec. 14, 1878, Joseph Rosenbaum, to secure Moses on lot 89, $1,000.00.

Dec. 16, 1878, to Evans & Peck, on lot 88, to secure the Washington Brick Machine Co., $1,250.00.

May 9, 1879, on lot 90, to A. L. Barber, to secure John H. Riggles, $1,200.00.

Oct. 24, 1879, to Geo. H. Lafetro, to secure Wm. Mayse on lot 96, $400.00.

761 Oct. 28, 1879, to Ryon & Tracy, on lot 95, to secure Charles Pomeroy, $300.00.

Nov. 18, 1879, to George W. Balloch, upon lots 89 to 91, inclusive, to secure the Hooper note, $225.

Dec. 17, 1879, to George W. Balloch, on lot- 95, 96, and 97, to secure the Hooper $1,500 note.

Sept. 12, 1879, to Evans & Peck, on sublot 23, to secure the Washington Brick Machine Co., $1,100.

February 26, 1880, to Hooper & Bingham, on lot 89, to secure Kitch, $750. This trust was recorded the same day of the deed to Hooper.

Q. This was the balance due Kitch, evidenced by the loan that we have been speaking about?

A. Yes, sir.

Jan'y 31, 1880, mechanics' lien on lots 87 to 100 and 18 to 23, by Gessford, for $307.66.

Q. Now state, Mr. Terry, which of these trusts and liens you have just enumerated were paid by Balloch from sources other than moneys received from the defendant insurance company and when they were paid.

A. None whatever, with the exception of $1,100 of the $1,250 assumed by Eastwood and paid in by his assuming it. The rest, none of them, as far as I know. Pettit & Dripps also assumed, on the $1,500 trust, $573.65.

Q. Now state which of these trusts were extinguished or paid prior to the 25th of February, 1880.

762 A. All of the $1,500 trust of the brick company was paid with the exception of $185.00. I am testifying as to the balance left on the 25th of February. Mr. Hooper has made a statement as to the payment to Mayse and Pomeroy of the two trusts that secured them.

Mr. Hooper has testified that they were paid by him between the 19th of January and the 25th of February, which, I think, is correct. The note of $225 given to Hooper is, by the best evidence, shown to have been paid prior to the 25th. It is charged up in his account already rendered in the $1,500 given to Hooper. There was no money passed in that transaction.

It is admitted that this $1,500 Hooper trust, so far as representing money or entering into this account, may be considered a blank in the counting.

A. The $1,100 paid the Washington Brick Machine Co. was paid on an order given to Mr. Hooper by Mr. Balloch prior to the transfer.

At this point the further hearing in this reference was adjourned to Thursday, June 26th, 1885, at same hour.

763 WEDNESDAY, *July 1st*, 1885.

Hearing pursuant to adjournment.

Present: Mr. Edwards & Mr. Moulton.

Mr. GEORGE TRUESDELL is called as a witness for the complainants at this time on account of his intended absence from the District, and, being sworn, is examined.

By Mr. EDWARDS:

Q. Please state your residence and occupation.

A. District of Columbia; real-estate and note broker.

Q. Please locate your present residence or where you have been very recently residing.

A. I have been residing for the last three years at the corner of 19th street extended and Columbia road.

Q. Prior to removing to this place where did you reside?

A. On 15th street between R & S northwest.

Q. How long have you been engaged in real-estate and brokerage business in this city.

A. Since 1873, about.

Q. What efforts have you made, if any, to familiarize yourself with the values of real estate in this District, and particularly in the northwestern section of the city, since you have been engaged in business?

A. My business as a real-estate agent and broker in placing loans have made me tolerably familiar with values in the city, especially in the northwestern part.

764 Q. During the year- 1878 and 1879 or 1880 have you any recollection of any sales of real estate in the vicinity or near the square known as square 177, which square is boun led on the east by 16th street, south by S street, west by 17th street and New Hampshire avenue, and north by T street? And, if you know of any such sale, state the circumstances and what you know about it and what the property brought.

Mr. MOULTON: I object to the form of the question.

The auditor admits the question for the present.

A. To the best of my recollection, I attended the sale at auction of a portion of the square immediately west of the square referred to about May, 1880, and of the T-street front several lots were sold at 20 cents a foot.

Q. I forgot to ask you, Mr. Truesdell, whether you built the residence you recently occupied on 19th street and Columbia road; and, if so, when you commenced to build it.

A. In the fore part of the year 1881.

Q. And immediately prior to that, I understand you, for greater certainty, you lived on 15th street between R and S?

A. I did.

Q. And had lived there how long?

A. I lived there for about three years.

Q. How far was that 15th-street house from this square 177?

765 A. About one block. My residence is on 18th street; say about one block and a half. I live about the middle of the block.

Q. Were you familiar in February, 1880, with the square 177?

A. Yes, sir.

Q. Were you also familiar with the buildings on that square then in course of construction?

A. Yes, sir; I passed there frequently during that year and the preceding and subsequent years.

Q. Were you familiar with the value of ground in this square or in this immediate vicinity at that time and for a year preceding, Mr. Truesdell, so as to form an estimate of its value and testify concerning it.

A. Yes, sir; I consider myself sufficiently familiar with the value of this property during that year to testify in regard to it, although I cannot say that I recall any particular sale in that square.

Q. I show you a plat which gives the 16th-street front of certain property involved in this suit. The south house is on the corner of S and 16th, and, as you will observe, has a front of 16 feet, running back 100 feet to an alley. The other lots and houses involved in this suit are immediately north, extending to lot number 89.

766 The other lots, excepting at the corner, has, as you observe, a front of 14½ feet, running back 100 feet to an alley. I wish you to state what, in your judgment, was a fair value for the ground included in the lots I speak about in February, 1880. Was this ground at that time subdivided as shown by this plat?

A. Yes, sir; and partly improved, so that the width of the lots was established, if that is what you wish to know?

—. But I am asking you as to the value of the grounds only.

A. Well, the value of the ground is materially effected by the subdivision, in my judgment. I should say at that time 40 or 50 cents a foot would be the value of that ground.

Q. Other lots, Mr. Truesdell, involved in this suit front on S street immediately west of the property I have just been showing you, as *as* appears by the testimony; there are six lots, 5 17 feet front by 100 feet deep to an alley, and the one on the corner of the alley opening on S street, 18 feet one inch front by 100?

Q. What, in your opinion, was the fair value of those lots as subdivided in February, 1880, per square foot?

A. About 25 cents. The one on the corner perhaps a little more.

Q. How much more, should you say?

A. Well, perhaps 8 or 10 cents a foot.

767 Q. There are 6 or 7 lots fronting on what is shown on the plat there as Swan street, also involved in this suit, which are vacant and were vacant in February, 1880. They have about the same front as the S-street lots and about the same depth.

Q What, in your judgment, was the fair value per square foot for those lots at the time that we are speaking about?

A. From 12 to 15 cents a foot.

Q. From your observation of this square, Mr. Truesdell, what is

there to indicate such a street as Swan street in this square from personal observation or inspection?

A. I never knew until a few days ago that there was any such a street as Swan street. I have passed there, I suppose, hundreds of times within the last four or five years.

Q. Do you recollect the condition of the improvements in front of the 16th-street lots—what is known as 16th street—in the spring of 1880, what the character of the pavement was, and so on?

A. To the best of my recollection there was a very badly worn wooden pavement.

Q. Do you recollect whether S street was in any manner improved or whether it is improved now in point of fact—the carriage-way?

768 A. S street, as I remember it at that time, had no improvement at all in the way of pavements.

Q. What difference, Mr. Truesdell, was there in the value, in your judgment, of the property that I have been speaking about to you on the 4th of June, 1879, and between that date and to February, 1880, which was about a year?

A. No material difference, I should say, whatever.

Q. Do you recollect the character of the work and the improvements on this property such as were there in February, 1880?

A. I think I do.

Q. State what your recollection is of the buildings, whether they were finished or in an unfinished condition, and the character of the work and the general appearance of the improvements, to the best of your recollection.

A. To the best of my recollection they were in an unfinished condition at that time, and the work was of a very frail and unsubstantial character.

Q. You have had some experience in building, Mr. Truesdell, yourself?

A. Some.

Q. What other profession have you been engaged in besides your present occupation as a profession?

A. I followed civil engineering to some extent.

769 Q. Have you built any houses in Washington yourself?

A. Yes, sir; I built two houses and finished some small houses that I bought in an unfinished condition.

Cross-examination:

Q. Mr. Truesdell, what has been you- principal business since 1878?

A. Loaning money.

Q. How many kinds of business have you been engaged in since 1878?

A. I have not changed my business that I am aware of since 1878.

Q. You are still in the same business?

A. Yes, sir.

Q. And loaning money in what manner?

A. Loaning money on real estate and buying commercial paper.

Q. That was your business in 1878 and 1879?

A. Yes, sir; it has been my business for a good many years. I stated, I think, in my direct testimony that my business was real-estate and note broker. That, perhaps, describes it as well as I could do it.

Q. And the real-estate and note broker to which you have referred is that of loaning money on real estate and brokerage in notes?

770 A. O, no; not entirely. I understand from your question that you wanted to know what sort of business I have done the most of. I suppose my note business has been larger than the real estate.

Q. Had you had any other business than that which you have just mentioned—loaning money on real estate and the note brokerage; and, if so, what?

A. During the past year I have been agent for a fire insurance company.

Q. Then you- knowledge of the value of real estate and of the particular real estate to which your attention has been called has been derived from the business to which you refer?

A. Yes, sir.

Q. When was the sale that you say you saw on T street, if I recollect correctly, where land sold for 20 cents a foot?

A. I should say it was in the spring of 1880. I possibly might be mistaken about the month, but not about the year.

Q. That was a sale made at auction?

A. Yes, sir.

Q. Deed-of-trust sale?

A. I could not say as to that.

Q. What amount of property was sold at that time, at that sale?

A. Well, I suppose there were, perhaps, two dozen lots or more.

771 Q. Is that the property subsequently improved by——

A. No, sir; I think there are no improvements upon it even now, with the exception of a house built by Walter Parris on New Hampshire avenue.

Q. On which side of T street was the property?

A. On the south side.

Q. Fronting north?

A. Fronting north.

Q. Were there more than 16 lots sold at that time?

A. I do not know the number; I should think, perhaps, two dozen; I saw the advertisement; there was a large number of lots sold fronting on T street and on a street running parallel to T through the middle of the square, and also on New Hampshire avenue front. I did not remain during the entire sale, but was present w-en the sale of the T-street front was made.

Q. Did any of it bring any more than 20 cents?

A. Well, I do not remember. I did not see any other lots sold.

I was driving by there and stopped just about the time the T-street front was struck off.

Q. Was it all sold in bulk or in different parts—lots?

A. It was sold to different persons; I don't know whether it was all sold in different lots; the T-street front was sold to Fitch, Fox & Brown; bought for themselves or for some one else. That is my recollection about it. I think, perhaps, they bought some other lots.

772 Q. That, as I understand you, is the only sale which you remember in this vicinity?

A. That is the only sale that I can distinctly recall. I have some recollection about other sales on the north side of T street, but I cannot recal- at present exactly, except they were about that figure; not much more.

Q. And yet you say you have no distinct recollection of the price?

A. Not sufficiently distinct to say that I know that a certain lot sold at a certain price.

Q. Have you owned any property in the vicinity other than your house on 15th street?

A. No, sir.

Q. When did you purchase this property, this lot?

A. I did not own this house on 15 street; I rented it.

Q. And you have never owned any property in the vicinity of this?

A. Not within three of four squares.

Q. In what way, then, sir, if you have no knowledge of any sales being made, have you obtained the knowledge that there was no variation in the price between the 7th of June and February, 1880, of the land involved in this suit, square 177?

A. My business requires me to keep pretty well informed in regard to real estate and the changes in price from time to time,
773 and watched the sale- pretty closely as they were made. It is a common thing among real-estate men to talk them over when a sale is made of any considerable magnitude, especially at that time, when real estate was very dull. It was talked over by real-estate men and by others interested in real estate.

Q. Is it your recollection that real-estate matters were very dull in May, 1880?

A. Well, real estate had commenced to improve at that time.

Q. Is it your recollection that it was very dull in 1879?

A. Well, that class of property was dull, to the best of my recollection. There were certain grades of property that there was some consideration actively in, but that kind of property, to the best of my recollection, had not commenced to feel the effects of the boom there very much.

Q. Now, sir, do you not know on the square right east of the property involved in this suit Mr. Groff built some sixty or seventy houses about this time?

A. No, sir; I do not.

Q. Did you know that there was a square or portion of a square being built up just east, in the square between 15th & 16?

A. No, sir; I do not think that square has got any houses on it.

774 Q. I did not intend by my question to refer to the square that is exactly east, but in that immediate vicinity, between 15th & 16th, on, I think, S or T street.

A. O, yes; I remember a block of houses reported to have been built by Mr. Groff—I presume he did build them—on the north side of T street between 15th and 16th, and also on 15th street between T and U.

Q. And that was the block east and one block north of the one involved in this suit?

A. Yes, sir.

Q. And in the immediate vicinity of this property?

A. Yes, sir.

Q. And then you are aware, as you have testified, that Mr. Balloch had started these buildings, involving some twenty-odd houses, in 1879, and they had been partly completed?

A. I don't know who started them.

Q. Well, the houses involved in this suit?

A. Yes, sir.

Q. Now, sir, don't you know that the fact of building, the construction, of all these houses and this large improvement in this immediate vicinity did advance and enhance the value of real estate there largely?

A. No, sir; I don't know anything of the kind.

775 Q. Then, is it or is it not your judgment that the improvement of unimproved real estate in a neighborhood enhances its value?

A. No, sir; not by any means.

Q. Have you ever been engaged in building houses?

A. Not generally speaking.

Q. Were you ever engaged in it in any place other than in Washington to any extent?

A. No, sir.

Q. You built two houses, I understand you, in Washington?

A. I built two houses and finished some small houses.

Q. That is, you bought small houses uncompleted and had them completed?

A. Yes, sir.

Q. By contract?

A. No; I had them completed by—maybe some of them by contract, but they were not contracted as a whole; in detail.

Q. The two houses that you built. Were they completed—built—by contract?

A. Partially so, but principally by day's work.

Redirect:

Q. You superintended the construction of these houses yourself, did you not, Mr. Truesdell?

A. Yes, sir.

776 Q. You have been asked the abstract question whether, in your judgment, the improvement of real estate necessarily enhanced its value, and you answered, No. I wish you to explain your reasons to the auditor, and particularly in respect to this property.

Objected to. Objection overruled.

A. Well, sir, in my judgment, the character of a subdivision and the character of the improvements affect the value of the ground very materially. If a subdivision is made too small and the improvements are too frail and of a cheap character the ground is injuriously affected thereby. In this case (I remember passing the buildings frequently) the work was very cheap and of an unsubstantial character; these lots are 14½ feet front; they are too narrow for that property, and, in my judgment, the buildings never were worth the amount of money that they cost—necessarily so. The property was damaged very largely, in my judgment, by putting on record such a subdivision and building houses of that character.

In regard to the Groff houses, I remember them very well. I remember also that those were of a very cheap character. I saw the timber going into these houses, which I do not believe under the present system a man would be allowed to put into houses today.

Objection renewed.

777 I cannot testify from recollection as to the width of those houses, but I know from personal observation (I live within a block of those houses or a little more) that the work was very frail and the row required a bad reputation almost immediately, so much so that some of the property was sold, I was told, at the amount of the first incumbrance—little over $2,000.

I know that for a long time that block had a very bad reputation and was very unsaleable.

Objection renewed.

A. I did not consider that block built by Mr. Groff of any value to the real estate in that vicinity. I think that such houses had better not be built.

Adjourned to Friday, the 3d of July, at 1 o'clock.

778 MONDAY, *July 6th*, 1885.

Hearing pursuant to adjournment.

Present: The witness, Terry.

On account of the engagement of counsel in the circuit court the reference *in* adjourned to Saturday, the 11 inst., at 1 o'c'k.

SATURDAY, *July* 11*th*, 1885.

Hearing pursuant to adjournment.

Present: Counsel for the defendant, and Mr. Moulton, of the counsel for complainant, with Mr. Terry, witness.

At the request of council present for complainant the hearing is adjourned to Monday, the 13th instant, at 1 o'clock.

MONDAY, *July* 13*th*, 1885.

Hearing pursuant to adjournment.

At the request of Gen. Henkle, of counsel for complainant, and on account of the absence of Mr. Moulton, his associate counsel, the hearing is adjourned to Monday, the 20th inst., at 1 o'clock.

MONDAY, *July* 20, 1885.

Hearing pursuant to adjournment.

Present: Mr. Moulton and the witness, Terry.

Mr. Edwards not appearing, the hearing is continued, subject to notice.

779 In the Supreme Court of the District of Columbia.

BALLOCH
v.
HOOPER.

WEDNESDAY, *Dec.* 30, 1885—2 o'clock p. m.

Hearing pursuant to notice.

Mr. Edwards appears for the defendant.

Owing to other engagement of the counsel for the complainant the case is postponed until Tuesday, January 5, 1886.

780 In the Supreme Court of the District of Columbia.

BALLOCH
v.
HOOPER.

MONDAY, *Jan'y* 11, 1886—2 o'clock p. m.

Hearing pursuant to notice.

Present: Mr. Moulton, for the complainant, and Mr. Jas. S. Edwards, for the defendant.

Mr. Moulton asks that the record shall appear: "That I desire to appear on the record that I ask that General Henckle may be permitted to present his objection to the cross-examination, so far as it has gone, when he shall appear."

Mr. Moulton makes the following objection:

I attribute much of the admission of the cross-examination to the fact that the examination-in-chief was had months before this examination or the greater portion of it was presented.

The decree of reference to the auditor in no sense calls upon the complainant for proof as to the cost of the improvements upon this

property at any time. The only clause of it calling for costs, as I remember, is that portion relating to the amount necessary to complete the house. The testimony-in-chief of Mr. Terry is based upon his judgement of the value of this property at the times in-
781 dicated in the decree, and in his examination-in-chief there is no one word calling for the cost of improvements. $\frac{9}{10}$ths of all the cross-examination is consumed in attempting to obtain from Mr. Terry the cost of the improvements. Now, all of that I object to, and the auditor will find upon an examination of the record that I interposed an objection at the beginning of that line of examination, and the auditor overruled it on the ground that Mr. Terry had said that in making his estimate of the cost of these things, possibly form some part of the foundation upon which he rested. The following is the question propounded by Mr. Edwards in his cross-examination which developed what is claimed by them that fact:

Q. In your estimate of the value of improvements on lots 92 to 96, inclusive, fronting on 16th street and included by the trust to secure the $16,000 or first loan at the time the first loan was made, did the cost of the improvements then on the lots enter into your calculations or estimate?

A. I think not. They entered into it, but I didn't give the figures they cost. I gave them as — believed them then.

Mr. Auditor, as I understand, the objection I made was overruled upon the theory of the fact demonstrating that Mr. Terry had used the cost as the basis which he estimated the value
782 of the improvements. If you refer to the examination of Mr. Terry you will find his judgment was based upon the knowledge of the value of property in that location, the prices fixed by persons, fixed at sales, and in various ways, and was in no way fixed upon this estimate of the cost, and Mr. Terry says in his answer, which I have just read, did not enter, although it may have some reference to it, in figuring upon that proposition. I ask the auditor to rule out all that branch of the cross-examination and excluded it in the future.

General Hinckle now appearing, the objection of Mr. Moulton is read to him.

Mr. Edwards in reply to what Mr. Moulton has stated says that he, Mr. Moulton, must be mistaken in regard to the lapse of time between the examination-in-chief and the cross-examination of the witness Terry; that the record discloses the fact that the examination-in-chief was closed on the 10th of June, 1885; that the cross-examination was commenced by me on the 13th of the same month, continuing as follows: 16th, 18th, and 22nd of the same month, and the 1st day of July, which was the last session at which any testimony was taken in the cause.

And Mr. Edwards also makes the point and suggests that
783 this objection as taken now comes too late, because there never was any objection interposed during the cross-exami-

nation to any of the question- asked concerning the costs of the improvements, as Mr. Moulton seems to think, and he invites Mr. Moulton'- attention to the record in respect to this.

The auditor denies the motion to rule out the cross-examination referred to.

By General HENCKLE: Now, then, we except first to the ruling of the auditor, for the reason that the cost of the improvements is not involved in the inquiry directed by the court or in the reference by the court; second, because it is not cross-examination to anything that was enquired of or answered upon the examination-in-chief.

Cross-examination of Mr. TERRY by Mr. EDWARDS:

Q. I understand, Mr. Terry, from your testimony that you state that the aggregate of the cost of the improvements and the lots in question is the sum of $31,217.41? You were requested at the last session through counsel to come prepared to state the date and amount of each of the items — made this aggregate sum. Have you done so?

Mr. Moulton objects to the question as incompetent and immaterial.

A. I have.

784 Q. Please furnish it.

A. Witness produces the paper referred to. This paper, for identification, is marked —.

Q. I also understand from your testimony that the aggregate cost of the improvements alone on the houses included in these three loans by the insurance company to be the sum of $19,185.63. You were also requested, through counsel, to furnish the date and amount of each of the items making up this aggregate. Have you done so?

Mr. Moulton objects to the question as incompetent and immaterial.

A. Yes; but I made the amount, instead of 19,185, 19,164.63—$21.00 difference. Well, there are some things that perhaps entered into the cost that I have not put down here and didn't in my calculation there. It is a question that I understood from the auditor that they did not enter into it. That was in regard to the tapping of the water and those things.

The auditor states that he has not at any time undertaken to exclude items of that sort from the class of proper expenses or costs.

Q. I did not understand clearly the difference in the aggregate furnished by this statement we are now speaking about and what I understand to be your testimony, as I have stated. Give the amount of difference.

785 A. It was a deduction for plumbing for the two houses he sold to Eastwood and Pettit & Dripps—$21.00 difference. I have not made deduction in report before.

Q. Then, as I understand you, in this statement we are talking

about you have not included among the items therein this sum of $21.00?

A. No, indeed.

Q. And for the reasons you have stated?

A. Yes.

Q. You are requested to produce this statement.

Mr. Moulton objects to the introduction of this statement as incompetent and immaterial.

A. Witness produces statements, which is filed and marked for identity.

Q. You were also requested in the same manner to furnish the items and dates thereof — the aggregate sum of $7,515.73 as the amount of money actually expended in the construction of the houses in controversy between June 4, 1879, and October 18, 1879. Have you come prepared to furnish this information?

A. I don't make the amount as I stated at that last session; I made it $10,354.99.

Q. And you have prepared a statement accordingly?

A. Yes, sir; I have taken, Mr. Edwards, the statement No. 1 and have put in red ink the figures just inside of the dollar
786 column—the items that go to make up the amount of $10,354.99—between the 4th day of June and October 18, 1879, to save making so many entries or repeating the same thing over.

Q. Then, as I understand you, the statement No. —, the first one presented by you to-day, also includes the items, which I now request of you, between the dates last mentioned?

A. Yes, sir.

Q. Now, furnish, if you can, the items and the dates thereof making the aggregate of $3,119.42 as the amount of money actually expended in the construction of these houses between Oct. 18, 1879, and January 19, 1880.

Mr. Moulton objects to the question as incompetent and immaterial.

A. Yes, sir; I don't make the amount the same as that I made the amount $7,153.77, and have included in this amount the amount of Pettit & Dripps' bill, and it is barely possible that some of that work was done prior to the 18th of October; I can't tell.

Q. Are the items you now speak of also included in this first statement that has been produced?

A. Yes, sir.

Q. Identify them.

787 A. They are in red ink and are between the dollar column and the items themselves.

General Henckle objects to the foregoing questions and answers as incompetent and immaterial.

Adjourned until 1 o'clock Wednesday, Jan'y 13th, 1886.

788 In the Supreme Court of the District of Columbia.

BALLOCH
v.
HOOPER.

WEDNESDAY, *Jan'y* 13, 1886—2 o'clock p. m.

Hearing pursuant to adjournment.

Present: General Henkle, for the complainant, and Mr. Edwards, for the defendant-.

Mr. TERRY recalled by Mr. EDWARDS for cross-examination:

Q. With the first statement produced by you at the last session, now before you, I wish you now to state what is the aggregate of the items included in that statement to the 4th of June, 1879.

A. In chronological order from November 2, 1878, the commencement of the account down to the 4th of June, 1879, inclusive, $5,652.82.

Q. Are there not also included in this statement under date of June 2, 1879, certain other items? If so, give them.

A. There are. The total of those as found on the 16th sheet amounts to $1,123.00. This — the other makes the total $6,775.82.

Q. Is there anything included in these items as expended on the ground prior to June 4, 1879; if so, how much?

789 A. $200.00.

Q. Under date of——

A. December 4, 1878.

Q. Was not that sum returned by the seller?

A. No, sir.

Q. You have testified, have you not, that the full amount of the purchase price, however, of $14,200.00 was secured by deed of trust given by Balloch aggregating that sum?

A. Yes, sir.

Q. Well, how do you account for this $200.00 not being returned?

A. It was placed as a credit on one of the notes.

Q. Then, in point of fact, it was not a payment other than by being credited on the notes, as you stated?

A. That is all.

Q. Do all of the items included in this statement we have now before us to June 4, 1879, relate exclusively to work and material and other matters expended in the construction of the houses involved in the deeds to the insurance company in this suit?

A. They do not.

Q. Does not your evidence on page- 38, 39, & 40 of the testimony taken before the auditor exhibit or show the matter of the expenditure which I speak of in relation to the houses involved in this suit included in the first loan on June 4, 1879, to that time?

790 A. I think so.

Q. Now state what you make the aggregate according to that testimony.

A. $3,256.04.

Q. In this aggregate sum you have included an item of $720.18 for lumber, have you not?

A. $720.18; yes, sir.

Q. That amount, however, was not paid prior to the 4th of June, as I understand your testimony?

A. No; I don't think all that was paid; I think part of that was due Kitch, and there was an acceptance afterwards by Hooper, to my recollection of it.

Q. Hooper paid it, did he not, according to your understanding of it?

A. My recollection of it, he did.

Q. It also includes an item of $341.35 as paid on account of the $1,500.00 trust to the Washington Brick Machine Co., does it not?

A. Yes, sir.

Q. Does this item of $341.35 appear in your itemized statement that you have before you?

A. I think so.

Q. Point them out.

Mr. Moulton objects to this form of examination.

A. 18th of March, $80.00, and on the 7th of March, $100.00; that is the only items that I find. I want to say in regard to the
791 brick that went into theses houses up to this time outside of this $400.00 there was two trusts—one for $1,250.00 and the other for $1,500.00. All of that brick, $2,750.00, had gone into the ten houses, and upon the $1,500.00 trust there had been paid back a certain amount of money and I thought more than was there.

Q. Do you find any other entries in the statement which make up this item of $341.35?

A. May the 2nd, $20.00; May the 3d, $20.00; June the 7th—I think I have included that in that $200.00—$234.95. I just put down on the statement made up $341.35. I put down the payment of $100.00 March the 7th and March the 8th $80.00 and June the 7th $161.35.

Q. Then in point of fact, according to your testimony, now, there had been paid to the brick company to the 4th of June, 1879, but $180.00?

A. There had been $220.00; there is two twenties that I have omitted.

Q. Now, state the amount of the Kitch order involved in this lumber that we speak about.

A. It is $700.00. I ain't positive whether some of this had not gone into the S-street property. I am a little in doubt in regard to that. I don't remember just when that first started.

Q. I now find by reason of the error in the item of $341.35,
792 when it should be $220.00, you have to deduct the difference from the $3,256.04, have we not?

A. Yes; the difference of $121.35.

Q. That difference is $121.35, is it not?

A. Yes, sir.

Q. And this deducted from $3,256.01 leaves——

A. $3,134.69.

Q. Then, if it be a fact that Hooper paid this $700 of this lumber bill and $220.00 for brick is also the correct sum, one-half of that prior to June 4th, according to your estimate, had gone into the five houses that were not included in the first deed of trust to the insurance company, had it not?

A. Yes.

Q. Which half should be deducted from this aggregate of $3,134.69, should it not?

A. Yes, sir.

Q. Which would make $2,724.69?

A. Yes, sir.

Q. How much of the money obtained from Moses on the trust to him and from Eastwood on the $1,200.00 trust given him as collateral, known as the Riggles trust, was applied prior to June 4, 1879, towards the costs of the ground and the improvements on the five houses involved or included in the deed of trust of June 4th, 1879, to the insurance company?

A. $450.00, to best of my recollection.

793 Q. How do you fix that as the sum from recollection alone?

A. Well, I feel positive in regard to the matter, as up to that time I think Moses had only advanced $500.00 and Eastwood $400.00, and half of that would be the $450.00.

Q. Now state how much money received from persons other than the defendants in this suit was expended on the property in controversy between June 4, 1879, and October 18th of the same year, the latter being the date of the second trust.

Mr. Moulton objects to the question as immaterial and incompetent.

And, if you can, give the items.

A. $500.00 and $600.00.

Q. And the date, and the persons from whom Balloch received them.

A. I don't know who — received them from; I cannot tell; the $500.00 is June 11th and the $600.00 in September 13th, 1879.

Q. What portion, if any, of that money was expended towards any buildings then in course of erection by Balloch not involved in this suit?

A. It would be hard work for me to tell that. The enterprise had been commenced on S street between these dates, I think, or was in progress, and I don't know—I could not tell really just
794 how much. If you take the whole ten houses it would be one tenth, or $110.00, and then there are some, perhaps, for the foundation, or the four foundations on the Corcoran property.

Q. If the S-street houses had not been commenced, however, would not the ratio of the application of this $1,100.00 be the same as you have testified to concerning the five houses involved in the first loan, namely, one-half.

A. It would have been, but I know the S-street houses were in process of building?

Q. When were they commenced?

A. I am not positive as to the date of that, but they were certainly in process of building between the 4th of June and 18th of October. There is no question in my mind about that at all.

Q. But the payments were made to you on the 11th of June and the 13th of September. What is there that enables you to state with any degree of certainty that the S street houses had been commenced on either of these dates?

A. I find payments here to the bricklayer in July, 1879, the first payment to bricklayer who worked on the S-street houses. I don't remember when the excavating was done.

Q. Well, now, after referring to your book are you not clear that as to the $500.00 paid June 11th nothing had been done on the S-street houses?

795 A. Very little; if any, it was the excavating.

Q. Then, as to that, there can be no question as to the share applicable to these five houses included in the first loan?

A. No, sir.

Q. It should be one-half?

A. One-half.

Q. You are unable to state with any degree of accuracy as to the other payment of $600.00?

A. I know that the building- on S street were in process of building prior to the 13th of September, 1879.

Q. Well, you can tell from those books, can you not, how much you had expended on the S-street houses up to that time?

A. No; I cannot; I have no items.

Q. The third trust of February, 1880, included, as I understand, the corner house on 16th street and three of the five houses on the same street which were in course of construction when the first loan was made, but not included in that loan?

A. Yes, sir.

Q. Now state how much had been expended by Balloch from sources other than from the defendants on account of these four houses, both for ground and improvements, when this last loan was made.

796 A. As this will take some time, I will furnish the answer at the next session.

Q. You are also requested to state what amount was expended in the same manner—that is, by Balloch—from sources other than from the defendants on the houses involved in the second loan, made in October, 1879.

A. I will also furnish this at the next session.

Q. You have stated also that the aggregate sum of the total credit given by you as Balloch's agent to the defendant Hooper in that book of original entries is the sum of $21,380.56. I wish you at the next session to furnish me with the items, given the dates and amounts, which enable you to so state.

A. I will furnish this statement at the next session.

Mr. Moulton objects to these last three questions as immaterial and incompetent.

Adjourned until 2 o'clock p. m., Friday, Jan'y 15, 1886.

797 In the Supreme Court of the District of Columbia.

BALLOCH
v.
HOOPER.

FRIDAY, *Jan'y* 15, 1886—2 o'clock p. m.

Hearing pursuant to adjournment.

Present: Mr. Moulton, for the complainant, and Mr. Edwards, for the defendant-.

The witness Terry, in response to the three questions propounded by Mr. Edwards at the last session, proceeds to answer them in their order as follows: To the first:

Now, it will be impossible for me to answer this question, for the reason that at the time the third loan was made work was being done on 20 houses, some of them at a further advanced state than others, and to tell just how much went into these four houses it is impossible for me to do. I tried my best to answer that, but I don't believe it is possible for any living man to do it.

To the second I say:

I have this answer to make: that — is impossible for me to do that, because at the time of the second loan work was being
798 done upon 16 houses and at different advanced states, so it is impossible for me to tell just how much went into the houses included in the second loan. Now, if it is possible for me to state and easy to arrive at the figures because it is simply a question of calculation as to the amount that had been expended upon three of the four houses included in the last loan at the time of the making of the first loan, that is simply a matter of calculation, and beyond that I can't go; it is impossible for me to do it.

In reply to the third question:

I made the amount $21,280.56 instead of $21,380.56, and it is simply an error in the addition of $100.00.

The witness produces the statement, and it is filed and marked Exhibit No. 3.

The witness continues:

I also wish to make a statement in regard to a question that Mr. Edward asked me the other day, if this first statement furnished at the session of Jan'y 11th—if the figures were the same as appeared in the record before the examiner on page- 38, 39, and 40, and I stated I believed it was, but I think now that there are two or three items of $200.00 paid for real estate that don't appear there. I enquired for this record the other day, but it was locked up and the
799 auditor was out, but I think the item of $200.00 paid to Adams does not appear in here, and also the recording of the papers, $40.00, paid to Eastwood, don't appear in here—two or three items.

By Mr. EDWARDS:

Q. Then, as I understand what you say now, that in the aggregate of items included in these pages, 38, 39, and 40, you did not include this item, $200.00, for ground and the other two & three small items which appear in this first statement of Jan'y 11th?

A. I don't think they appear there; I have not had an opportunity to examine.

Q. Is this your understanding of it?

A. That is my understanding; yes, sir.

Q. I understand you to say that the expenditures, the houses involved in this suit prior to June 4, 1879, were in part from money borrowed by the complainant?

A. Yes, sir.

Q. State, if you can, how much of the money so borrowed was repaid or returned by the defendants or either of them.

A. It was all paid, I think, by the defendants; I don't know which one; but Hooper, I think.

800 Q. Do I understand you to say that all of the money that was borrowed by Balloch during the period I have just mentioned was obtained exclusively on deeds of trust or mortgages on the property involved in this suit?

A. I don't state that I don't know; I thought you had reference to the mortgages.

Q. Then you don't appear, from this answer, to have understood the question last preceding that which you have now answered?

A. No, sir.

The question referred to is read to the witness, who answers as follows:

A. I state that the money borrowed from Moses was paid by Mr. Hooper, he has so stated, and I have no doubt of it, and that borrowed from Eastwood was paid, was paid him and so testified to and I have no doubt returned by him.

Q. But Balloch did borrow money from other parties than Moses and Eastwood for the purpose of purchasing material and paying for labor on these houses to June 4, 1879?

Mr. Moulton objects to the question as incompetent and immaterial.

A. I don't know of any; I don't remember any.

Q. Did he not raise money for this purpose on his notes, discounted in the bank?

Mr. Moulton objects to the question as incompetent and immaterial.

A. I think not; I don't remember of his having done so.

801 Q. How were the four items included in the first statement of Jan'y 11, 1886, under date of November 4th, 9th, 13th, and 14th, paid to the brick company; by cash or by check or by either?

Objected to by Mr. Moulton as incompetent and immaterial.

A. Paid by cash, I think.

Q. How was the item of May 23, 1879, appearing in this same statement to Caverly & Co., tinning, $400.00, made?

Objected to by Mr. Moulton as incompetent an- immaterial.

The question in its present form is ruled out.

Q. An item appears under date of May 23, 1879, in this statement we have now before us: "Caverly & Co., for tinning, $400.00." Was any portion of that money furnished by the defendants or either of them, directly or indirectly?

A. That $400.00 was secured from Eastwood, he, Mr. Balloch, given to Eastwood his note for $400 for thirty days and placing as collateral security the $1,200.00 real-estate note, called the Riggles's note that has been named, but whether it was by check of Eastwood's or by the money I am not positive.

Q. Then I understand you that Balloch raised this $400 to
802 pay to Caverly on this note given to Eastwood with the $1,200 note as collateral?

A. Yes, sir.

Q. But was not this Eastwood note paid by Hooper?

A. He got $175 after this from Eastwood, which, with the $400, was all that he received upon the $1,200 note, which $1,200 note was afterwards paid by Hooper, as I am informed and believe.

Q. Were there any other moneys expended by Balloch towards the cost of this ground and the houses prior to June 4, 1879, that was obtained by him directly or indirectly from persons who were afterwards repaid by the defendants?

Objected to by Mr. Moulton as incompetent and immaterial.

A. None that I remember of, except the one I named. Moses and Eastwood—thoses were all of them.

Q. In the statement furnished by you on the 11th instant, in response to the request previously made that you furnish the items and dates making the aggregate sum of $7,515.73 as the amount of money actually expended in the construction of the houses in controversy between June 4, 1879, and October 18, '79, which items are represented by figures in red ink between these dates, I find that you omitted a number of items of expenditures during that period and I wish to know why you so omitted them.

803 A. Well, I omitted things I thought, perhaps, would not be considered in the construction of the houses, the actual cost of construction.

By Mr. MOULTON:

Q. Such as what?

A. Such as watchmen, abstract and interest, insurance upon the houses.

By Mr. EDWARDS:

Q. State the aggregate of these omissions, and if these expenditures so omitted did not, in point of fact, relate directly or indirectly *in*

the matter of the construction of these houses and the furnishing of means therefore.

A. I think so.

Q. Now state the aggregate.

A. I made it $4,613.86.

Q. How much of these payments was made on account of the ground to Adams?

A. $4,200.00, which includes interest.

Q. It appears also in this statement wherein you undertake to furnish the items of disbursements between October 18, 1879, and the date of the transfer to Hooper or to the time you discontinued keeping the books for accuracy, being Jan'y 20, '80, that you have omitted some items. Were those items of the same character as those you have testified to concerning the prior date?

A. Yes, sir.

804 Q. Now tell us what those items amount to.

A. I make it $5,610.78.

Q. How much of that is for real estate?

A. Five thousand dollars.

Q. You say that 20 houses were in course of construction during the period covered by those loans and transactions between the complainant and the defendants; of those, as I understand, 18 are involved in this litigation?

A. Yes, sir.

Q. And two are disposed of to Pettit & Dripp and to Eastwood?

A. Yes, sir.

Q. When were the Pettit & Dripps & the Eastwood houses finished?

A. I don't know just when; there is some little work on the Pettit & Drips houses he does himself, he afterwards informed me; it was—well, almost completed on the 20th of January, 1880; just what was necessary to finish it, I don't know.

Q. From the time that Balloch first obtained money upon these houses from the insurance company up to the 20th of January, had work also been progressing on these two north houses?

A. Yes, sir.

Q. A portion of the money obtained from the company was expended by Balloch in paying for the two lots and in building

805 the houses, those two north houses?

A. Yes, sir.

Q. All went into the pool?

A. Yes, sir.

Q. And the only money that was furnished by Balloch to those two north houses is that included in these statement- that you have furnished on and since the 11th inst. and the testimony given by you since that time?

A. I have stated the total amount that Balloch put in the houses; but the question has not been asked me, so far as I remember, of the amount put in by Balloch since the 18th of October, '79.

Q. And what does that amount to then?

A. $2,528.63.

Q. Has any portion of that been repaid by moneys obtained from the defendants or either of them; if so, how much?

A. $1,100.00 I make it.

Q. Then, as I understand you, this sum of $2,528.63 was expended by Balloch after October 18, 1879, on the whole 20 houses?

A. On the whole 20 houses.

Q. Is there not a way by which you can state how that should be portioned?

A. No, sir; I could not. It is impossible to do that.

Q. Does this book which you have had before you and which we have had in this case, known as the black book, include any
806 other matters than the accounts and transactions relating to the property involved in this suit?

A. Yes, sir.

Q. Other private matters of your own?

A. Yes, sir.

Q. Did you keep an account in this or any other book of bills payable by Balloch?

A. I did not.

Q. Did you keep any such account as a loan account?

A. No, sir.

Q. State the items of the account appearing in this book or the characters of the account so as to describe them relating to this property.

A. Thomas W. Smith—that is for trimmings, I think, and doors; Pumphrey, carpenter work; Burke, carpenter work also; George O. Stevens—that is Baltimore; it was for sash and inside blinds; Rob't A. Balloch, S. A. Terry.

Q. Well, state what the items are—what they related to.

A. Well, moneys put in by Mr. Balloch which is credit due Balloch; S. A. Terry, charges due him as superintendent; Childs & Co.—that is for brick; Washington Brick Machine Co., for brick furnished; District of Columbia—that is amount paid for city surveyor, tapping water mains, permits to build, making subdivision survey;
S. Brent—that is excavating labor; McIntosh—that is ex-
807 cavating; Jas. Wormley—that is for stone; Frank Sterling—that is for brick-work; Chas. McRoberts, for laying stone mantels; Johnson's—that is for plumbing; Cotton—that is for painting; Grinnell—that is for bricklaying; that includes lime and morter; J. G. Davis—that is stair-building, I think; Plumley—that is for frames; J. Mitchell's, for stair-building; Charles Gessford—that is for carpenter's work, most all, and Little—that is for brick-work; commissions—that is for Sturdevant, Hooper, myself, and Ryan & Tracy; interest—that is interest of the brick company; interest to Kitch; insurance; W. H. Mitchell, stair-building; sundry accounts—that includes watchman & digging; some digging and miscel-aneous accounts; lumber from various parties—Willett & Libbey, Schilds, McLain, Kitch, and Thomas Smith; I think that is all; real estate; Schooler & Johnson, legal fees—that is recording, drawing deeds, recording abstract; carpenter work—this is miscellaneous carpenter work; in the early part they are by Major, Wagner & Williams,

Major & Safford; Dayton & Scribner, for brick-work; hardware account; roof account; here is trimmings outside of that to Thom. Smith; plastering done by Hobbs on S street; account of Wm. R. Hooper; deeds of trust and sales account; plumbing account; J. K. Kueling, bells, &c.; Dennis Reilly—that is pitching; Curtiss & Morton—that is painting. This is all.

808 Q. Who did the painting on these houses?

A. Cotton—that is, prior to the transfer of the property to Hooper, in February, 1880; Curtis & Morton and a party by the name of Cotton.

Q. Do you know Mr. Cotton's first name?

A. I do not.

Q. Do you know where he lives?

A. I do not.

Q. In your second statement, furnished on the 11th of January, you are asked, in response to the request for you to furnish the items making up the aggregate sum of $19,185.63 as the costs of the grounds alone and the houses included in these three loans by the insurance company—I find that the first items above there on this account is under date of August 30, '79. Expenses had been incur-ed and payments made on this account prior to that time, had it not?

A. Yes, sir.

Q. And why were they omitted?

A. They are here. This I have taken from the posting, and that is the reason that Pumphrie's account is such a date.

Q. Mr. Terry, you have manifested considerable interest in this case, haven't you?

Mr. Moulton objects to the question as incompetent and immaterial.

A. I don't know that I have specially.

809 Q. You have done a great deal of work for the complainant Balloch in the case, haven't you?

A. Yes, sir.

Q. You have attended nearly every session in the taking of the depositions before the examiner originally on both sides and have been before the auditor in this examination, have you not?

A. Yes, sir.

Q. You have made a copy of all the testimony taken before the examiner for the complainant?

A. No, sir; not quite.

Q. Nearly all?

A. Part of it; part of it was copied by other parties and he paid them for their copying.

Mr. Moulton objects to all this as immeterial.

810 Q. You have prepared data, have you not, for the purpose of argument by counsel when the case was on hearing in the special term?

A. I don't remember now whether I did or did not. I don't remember of having done it.

Q Did you not prepare for the use of counsel for argument when the case first came on for hearing in the special term before Justice Hagner a synopsis of the testimony, with an index, for the purpose of handy reference by counsel?

A. I did.

Q. Were any of these services performed by you for compensation?

A. He paid me for the copying I did the same as he did for copying done by other parties; he paid them so much a folio.

Q. Who was that, the complainant?

A. Balloch.

Q. Did you not obtain and search for witnesses for the purposes of the plaintiff's proof in this case and call upon them nearly in person in relation to that testimony?

A. I did at request of Mr. Balloch to do this; he was living in Rockville and had less time to attend to that than I had and he asked me to do it.

811 Q. Have you been in communication with the complainant concerning what you did and what has occurred since the case was argued before Justice Hagner from time to time?

A. I have told him every stage of it. He asked me from time to time to do that, and he called upon General Henckle sometime-, and he has requested me to see General Henckle and Mr. Moulton.

Q. Between the 22d of June last, the date of your testimony taken before the recess in this case, you have read over papers, depositions of your own testimony upon cross-examination, for the purpose of advising yourself in the subsequent examinations we have had from time to time, have you not?

A. No, sir; I don't remember of having done it.

Q. Do you undertake to say that prior to the 11th inst. and since the 22d of June you have not read over your cross-examination in this case?

A. I have read it over, but not for the purpose that you have stated. General Henckle requested me to go up to his house a certain night and he had me read that to him to save himself from reading it, I suppose.

Q. You mean this testimony taken on this reference before the auditor, which I now hold in my hand, do you not?

812 A. I mean the whole of it; all that you hold in your hand.

This ends the examination of Mr. Terry.

Mr. Moulton interposes an objection to the whole of the last series of questions propounded to the witness as incompetent and immaterial.

Adjourned until Wednesday, Jan'y 20, 1886, 2 o'clock p. m.

813 In the Supreme Court of the Dist. of Columbia.

BALLOCH
v.
HOOPER.

WEDNESDAY, *Jan'y* 20, 1885—2 o'clock p. m.

Hearing pursuant to adjournment.

Present: Mr. Moulton, for the complainant, and Mr. Edwards, for the defendant.

Mr. TERRY recalled by Mr. MOULTON for redirect examination:

Q. Mr. Terry, you have, at the request of Mr. Edwards, filed a statement disclosing the entire cost of the improvements in this property down to the date of transfer to Mr. Hooper to be $31,217.41. State whether or not that includes all of the materials and labor that went into the improvements down to that date.

A. The statement of $31,217.41 included simply the expenditures.

Q. Is there anything else that should be included in that statement in order to show the entire cost of the improvements and grounds up to that date; and, if so, what?

A. There is an item of $1,875.00 of Pettit & Dripps — material furnished and work done.

Q. Anything else?

A. $573.65 worth of brick paid for by Pettit & Dripps, $185
814 brick afterward paid for by Hooper, $117.00 for painting materials, oil, &c., furnished by Riggles; $182.00 worth of lumber furnished by Thos. Smith; $17.50—I am not positive whether it is brick or interest; Plumley, frames, $60.00; Thomas Somerville, plumbing material, $94.50; Riley, pitching, $12.00; Clayton, $40.00, concreting two cellars.

Q. Is there not another item relating to hardware?

A. There is; $3.50.

Q. Why were not these items included in the statement furnished in response to Mr. Edwards' request?

A. I understood that he simply asked for the money that had been expended to give the expenditure as they were shown on the book.

Q. What is the aggregate of the items that you have mentioned, including the $31,217.41 previously given?

A. It makes it $34,377.56.

Q. $34,374.77?

A. $34,377.56.

Q. Now, Mr. Terry, of this sum of thirty-four thousand and odd dollars, how much of it was obtained or paid by the defendants in this suit?

A. $21,280.56.

Q. How much of it was obtained from Mr. Balloch's private funds?

815 A. $6,828.63 I make it.

Q. If any of it was obtained from a man by the name of Eastwood, will you please state what amount?

A. $575.00 obtained from Eastwood on account of the $1,200 Riggles note and $1,100 assumed by Eastwood on account of the purchase of one of the houses by him.

Q. What amount, if any, was obtained from Mr. Moses?

A. $1,000 from Moses.

Q. Any part of it obtained from Mays; and, if so, what amount?

A. $100.00 from Mayse; $300.00 from Ryan & Tracy; $225.00 from Hooper.

Q. Evidenced by that note of his?

A. Evidenced by that note of his.

Q. What else?

A. $185.00 paid by Hooper for brick after the transfer.

Q. And what is the amount of work done, material furnished, by Pettit & Dripps on this improvement?

A. $2,448.65, money paid by them for brick and work done and material furnished.

Q. Mr. Terry, in our statements and in some part of our testimony we have claimed that Mr. Balloch received from the defendant the insurance company only the sum of about $15,000.00, whereas in the statement just made we disclose that the de-

816 fendants had supplied $21,280.56. Explain the difference between these two amounts.

A. The statement or exhibit furnished by me under date of Jan'y 15, 1886, has on it a number of items that was not taken into the account in making up the statement for Mr. Balloch in the original bill disclosing fourteen thousand and odd dollars.

Q. Give a specimen of the items to which you refer.

A. The items are made up of the commissions paid to Mr. Hooper and the payments upon the Archer house, for which they had no title, and five thousand paid to Adams on account of their ground and $100 paid for labor and material furnished by Mr. Caverly upon the Archer house, for which they have no title, and the order given Mr. Somerville upon Mr. Hooper for $94.50, which was not paid. I think that takes it all, and are the items which appear in red ink on the margin of this statement, which is in my handwriting.

Q. Is there not another item of perhaps some five hundred dollars in relation to Mr. Balloch that ought to be added to the aggregate, $34,377.56, on the total cost of these improvements?

A. I do not think of any.

817 Q. This, the aggregate already given, as I understand you, Mr. Terry, included the improvement on the whole twenty houses and on the four foundations that were never completed, does it not?

A. Yes, sir.

Q. Well, now, sir, what amount of this sum ought to be applied to the two houses not included in this suit?

A. I should say about $3,300.

Q. And what amount was expended on the four cellars?
A. About $280.00.
Q. Making a total of what?
A. $3,580.00.
Q. Deducting that sum from the aggregate given by you, of $34,377.56, leaves what amount as having been actually expended on the lots and grounds included in this litigation?
A. $30,797.56.
Q. Mr. Terry, is not the statement just made the clearest and most comprehensive that has been filed in this case disclosing the costs of those improvements from the time of the transfer to Mr. Balloch as well as the money invested therein by Balloch and the sources from which all the money and cost of the improvements was derived?
A. I think so.
818 Q. Whatever you have done in this case, Mr. Terry, or whatever papers you have prepared, state whether or not it has been at the request and direction of counsel of Mr. Balloch.
A. I think so; I believe so.

Recross-examined by Mr. EDWARDS:

Q. You speak again about the Somerville order—$94.50. Do you now assert as a positive fact that Hooper did not honor or pay that order?

Mr. Moulton objects to the question.

A. He paid one order of $94.50. There were two orders given. One was not paid and one was paid, but the material was furnished in both cases.
Q. Then, as I understand you, there were two orders in favor of Somerville on Hooper—one for $94.50—both of which, I understand, you credited Hooper with on this statement furnished under date of Jan'y 15, 1886. Now, I ask you, do you assert it as a fact that both of those orders were not honored or paid by Hooper?
A. I do.
Q. Does not the statement which you furnished on the 11th of January only include disbursements on account of the improvements and ground involved in this suit to January the 20th, 1880, only?

Mr. Moulton objects to the question as incompetent.

819 A. There are some few items entered on here that do not show the actual money paid out; it is meant to come simply up to Jan'y 20, 1880.
Q. Were any of these additional items that you have mentioned to-day on your redirect examination paid out or expended subsequent to January 20, 1880?

Mr. Moulton objects to the question as incompetent.

A. All of the items that I have named to-day went into the building prior to the 20th of January, 1880; it is barely possible in the

bill of Pettit & Dripps, for $1,875.00, that some of that work was done and materials furnished subsequent to that date, but I think not; I am unable to state, for I have not the bill here.

Adjourned until Monday, Jan'y 25, 1886, 2 o'clock p. m.

820 In the Supreme Court of the Dist. of Columbia.

BALLOCH
v.
HOOPER.

SATURDAY, *Jan'y* 30, 1886—2 o'clock p. m.

Hearing pursuant to adjournment.

Present: Mr. Moulton, for the complainant, and Mr. Edwards, for the defendant.

JOSEPH P. HESTER sworn and called by Mr. MOULTON:

Q. State your name in full.
A. Joseph P. Hester.
Q. Where do you reside?
A. Washington, D. C.
Q. How long have you resided in Washington?
A. About twelve years.
Q. Do you know Mr. Rob't Balloch, plaintiff in this suit?
A. Yes, sir.
Q. Do you know Wm. R. Hooper, one of the defendants?
A. Yes, sir.
Q. In what business are you engaged?
A. Speculating in real estate.
Q. How long have you been engaged in real-estate transactions?
A. Well, I have been dealing in real estate more or less ever since I have been in Washington.

821 Q. What knowledge have you of the property that Mr. Balloch was constructing on 16th St., in the vicinity of T northwest, in Washington?

A. My knowledge is as complete as it was possible for the occupant of one of the houses to be.

Q. What relation did you bear to the property through Mr. Balloch, if any?

A. Mr. Balloch placed all those houses in my hands for sale under a contract in which I was to occupy one of the houses for the time being, to have the house presentable, in good condition, to show customers.

Q. That was part of your agreement with Mr. Balloch, I believe, to exhibit the houses that you occupied, to furnish it up neatly and have it appear well. Did you complete the house in that manner and occupy it?

A. Yes, sir.
Q. One of the houses in this row?
A. Yes, sir.

Q. By reason of your employment by Mr. Balloch and occupancy state whether or not you had an opportunity to examine the houses, see their condition, class of improvement, &c., as it was going on.

A. Well, I had the most complete opportunity of examining the one I lived in, and I went in the other frequently to see their condition and show them to other persons. I rented
822 two or three of them while I was there to occupants who came in.

Q. What means did you have of knowing the value of real estate in that immediate location at that time, sir?

A. By reason of other values, the construction of the building, and my own general information about the value of the houses.

Q. Do you know how many of the north ten of these houses were completed at the time to which you refer?

A. I don't remember definitely, but I think there must have been all but about five of the row completed or nearly so. There was, I think, about five that were not roofed, including the corner one on the south end. If I had the contract here with Mr. Balloch I could tell exactly.

Q. Well, of this portion of the row that was not completed how nearly completed were they? State to the best of your recollection.

A. I think all of the joist were in and they were nearly ready to be roofed; practically the brick were all laid. There had been some knocked off, and it may have needed a few courses of brick around the cornices in front, perhaps. One house needed half a dozen courses below the place where the roof would go on;
823 not of the ten or twelve houses in the upper end, but in this lower end.

Q. Now, of the few in this upper ten—this row of ten—of the few that were not quite completed, how nearly completed were they?

A. Well, I think they had the roof on, the plastering, and the windows in. I think there was one or two of them that didn't have the iron steps up in front and perhaps some little trim-ing inside. The latrobes, I think, was not in two or three of them.

Q. But they were nearly completed?

A. Nearly completed; they needed a little work inside, the latrobes, perhaps; some little trim-ing here and there about the banister railings; one or two needed some work there.

Q. You say you had these houses for sale?

A. Yes, sir.

Q. At what price were you offering them for sale?

A. $3,500, I think, was the price we put on them. Mr. Balloch wanted to make a speedy sale and he named the price $3,500, if I remember rightly, and I am pretty certain that was the price, perhaps with the understanding that if an offer were made for a little less it might be accepted.

Q. Colonel, from your knowledge of the value of real estate in this vicinity, will you please state the value of these houses
824 in this row that were completed about February 17, 1880—each house of those houses?

A. I think the value of the houses at the time named would be at the least $3,200, at a low valuation. I think they would have been cheap at that at that time.

Q. State whether or not the houses that were nearly completed or not quite so, if completed, would have been of the same valuation.

A. They were exactly the same houses, as far as my knowledge is concerned; the only difference was that some were finished and other- not quite finished.

Q. Would not that apply to the entire row until you got to the south corner house?

A. Every house there, except the two end ones, the north house, and the south house of the row, were exactly alike in plan, in width, size. I didn't measure them, but my eyes would not deceive me in that they were the same houses; there was no difference in them.

Q. Can you, from your general knowledge of the value of property, estimate the value of the south or corner house when completed?

A. At that time?

Q. Yes, sir.

825 A. Less than five thousand dollars; probably more. I didn't pay so much attention to that, because it was not finished, and didn't expect to sell that one until it was finished, and I didn't pay so particular attention to that as I did to those that were finished.

Q. There were two houses in this row, the two north houses, I believe, that were sold about this time, were they not?

A. They were sold before I went there. Mr. Pettit own- one and Mr. Eastwood the other. I rented Mr. Eastwood's for him and Mr. Pettit's also.

Q. Do you know what those two houses sold for each?

A. Only by rumor. I was not cognizant of the facts of the sale myself. I knew they had been sold and had changed hands.

Q. Colonel, did you have sufficient knowledge of the incomplete improvements as well as the complete improvements to enable you to estimate the value of the improvements independent of the land on each of these lots on this date, February 17, 1880?

A. I was not thoroughly familiar at the time with all the details, the cost of drawing plans by architects and some material that go into houses, hardware, locks and keys and such things, and many things of that sort. I was not an expert in their value.

826 My knowledge of the value of real estate was more by what houses sell at, by the size, construction, and the accommodation that the houses afforded then it was by the cost of material that went into it at that time. I have more knowledge now of the cost of labor, material, and costs than I had at that time.

Q. With your present experience and knowledge are you able to state the value of the improvements on each lot at that date, the 17th of February, 1880?

A. More correctly than I could have done at that date. I built,

bought material, and employed labor since, and I had not at that time so much.

Q. You say you have bought materials and built houses since that time?

A. I built a little before that time.

Q. What would be your estimate of the value of the completed improvements independent of the lots?

A. Well, assuming that material then cost about what it now costs (and I know of no great change), no builder could undertake to complete such houses for less than from between twenty-three hundred and twenty-seven hundred dollars.

Q. Then what would you fix the value of the complete improvements independent of the lots at that time?

827 A. About that figu-e.

Q. What would you fix as the value of the improvements on the south five in this row of ten that were not quite completed at that time?

A. Well, I should judge that they were not completed; they lacked an outlay of two hundred dollars, perhaps two hundred and fifty——

Q. Each?

A. Each—to bring them up to the same state of completion as the others.

Q. What would you estimate to have been the value of the improvements on the three houses south of the ten, in relation to which you have just been testifying, on the 17th of February, 1880, if you remember distinctly?

A. Well, they must have needed four hundred dollars to bring them up to completion; the roof was not on then.

Q. And the value, then, of that would be what under that estimate?

A. The same as the others.

Q. From twenty-three to twenty-seven hundred dollars less four hundred?

A. Yes, sir.

Q. Do you remember the condition of the improvement on the corner house, on the south lot, corner 16th & T?

828 A. It seems to me that it had advanced about as far as the other three that you have just mentioned. I am not certain that the brick-work was quite finished, as I think it was somewhat lower. I can't remember just now the exact height of those walls, but it seems to me perfectly plain in my mind that the wall of that house was not quite as high as the others, and I am not sure but it was a story short.

Q. The design of that house, I believe, was much larger and quite different from the other thirteen houses?

A. Yes; it was quite superior in plan an- conveniences and size to any house in the row.

Q. About what, as you recollect the condition of the improvement, was its then value independent of the lot?

A. Well, there must have lacked seven or eight hundred dollars

to finish that house; perhaps a little more than that; seven or eight hundred dollars I should say it would have taken to finish that house.

Q. State whether or not these improvements were of a class suitable for the location and the street where they were built at the time.

Objected to by Mr. Edwards.

A. Well, in a general way they were about equal in pro-
829 portion to other houses being built there; perhaps they were not quite as wide as the average house being built there. I think there was a whole block built there 17 or 18 feet wide. I think about 17. I think Mr. Groff built pretty near a whole square of houses there worth a little more than these, mainly on account of their width. I think if these were of the same width they would have been worth as much as Mr. Groff's houses; these were a little narrower—perhaps a foot narrower—than Mr. Groff's houses.

A. I was inquiring more particularly as to workmanship and construction of the houses as well as to their appearance and the demand for such property in that immediate vicinity.

A. Finer houses, more expensive houses, would not have been in demand there at that time; these seemed to be about the kind of houses that would suit that remote part of the town as it was at that time. The style of the houses was rather beautiful for small houses, and the construction was as good as, as far as I could see, of the average house—floors well laid; timber seemed to be fair. I saw no cracks in the wall, as if the bricks had been laid well; no leaks in the roof that I discovered; I think they had good roofs on
830 them; the only objection I knew to the houses was the width, and having lived in one I found them very comfortable, very satisfactory for that size house.

Q. What, if anything, did you know of the dealing of defendant Hooper with Balloch in relation to the payment of money, &c., in the construction of these houses?

Objected to by Mr. Edwards.

A. I — know of that except by hearsay.

Cross-examination by Mr. EDWARDS:

Q. Does your answer to the question as to your residence in Washington apply to this District?

A. District of Columbia?

Q. Yes, sir; you may have lived in Georgetown or in the county. I only want to know whether you lived in the District or Washington before. You say in Washington twelve years. I only want to know whether you have been in the District.

A. Washington, I believe, is in the Dist. of Columbia.

Q. I know, but there is Georgetown and the county.

By the AUDITOR:

Q. Mr. Edwards wants to know whether you have been in any

other part of the District for any other time than for the twelve years that you have been in Washington.

A. Well, for a short time of about nine months I bought a place outside of the District really, but my interests were here and
831 I was here, not every day, but often.

By Mr. EDWARDS:

Q. Then I understand that your actual residence in the Dist. of Columbia is confinded to twelve years, as you state?

A. About; I have been absent occasionally during that time; I was absent several months at a time, or three times during twelve years, but I have regarded Washington as my home and the place where my interests were and where I always intended to reside ever since about the time stated.

Q. Give the period if you can, Colonel, of your absence from Washington.

A. Well, it was immediately after the transfer of this property from Balloch to Hooper that I bought a place out here in the country and went to it temporarily and have resided there ever since; my interests are here in the city in the meantime, and I am coming in and going out there; I have never acquired any citizenship anywhere else during all this time, and relinquished the citizenship I had in my native State when I came to Washington.

Q. I understood from your answer that you had been out of the city and had went to other localities for other business.
832 A. No, sir; I had no fixed business except on two occasions I went away to make an investigation for the Government.

Q. When was that and how long were you gone?

A. Well, I went to Florida during that time; I think it was in 1878, '79, or '80; I declare I don't remember; it was almost immediately after Mr. Hayes' election; I have forgotten the dates.

Q. How long were you absent?

A. The work I was engaged in I think occupied perhaps a year or more, and I was back here frequently during the time.

Q. Have you been absent from the District of Columbia on any other business exterprises than this one you now speak of in Florida?

A. Yes, sir; I did some Indian work in North Carolina at a later date.

Q. How long were you engaged in that?

A. I think the work occupied a year; I was not there all the time; I did much of the work here; I went there to get data and the compiling of the work I did here.

Q. When you first came to the Dist. to reside — what business or occupation was you engaged, and how long did you continue in it, Colonel?

A. When I first came here it was during General Grant's
833 first term, the latter part of it, perhaps; I was invited here

by the President, and was appointed a special agent by his direction in the Department of Justice.

Q. State how long you were engaged in that occupation.

A. I think it was two or three years, perhaps.

Q. What was your next occupation?

A. I am not sure whether the next one was in the Post Office or in the Interior Department, but I served in nearly every one of the departments at different times on special occasions.

Q. State how much time you were employed in the other two departments you speak of, the Post Office or Interior.

A. Well, I went to Alabama for the Post Office Department to make an investigation.

Q. I don't care about the work; I want to know the time you were engaged in it.

A. I don't know exactly. I think I must have been gone three or four months. I don't think it was less than four months.

Q. Was that the extent of your employment in the Post Office Department?

A. It was that time. I have been in it several different times with intermission. At that time I was swapped around from one to the other during these times from the date of Hayes' inauguration, and from that time up to now I bought, speculated, and sold
834 some real estate and became familiar with it and built some little houses.

Q. Now state the periods, if you can, of your actual employment in the Post Office and Interior Departments.

A. I can't give the exact dates, but it was up to the time of Hayes' inauguration that my employment was pretty much continuously in one department or the other.

Q. Up to Hayes' inauguration, Colonel, did you purchase any property or make sales of any property or construct any houses in the District of Columbia?

A. Up to Hayes' inauguration I did not. The first house I ever purchased in the Dist. of Columbia I moved into it the very day of Hayes' inauguration.

Q. And that was a purchase outright?

A. That was a purchase,

Q. Where was that house?

A. That was on Q street, No. 1335.

Q. Between 13 & 14th?

A. Yes, sir.

Q. When was the next purchase, sale, or transaction concerning real estate that you had after that?

A. The next piece of property that I bought in Washing-
835 ton was, perhaps, a few months later; that I bought myself, No. 1741 13 street.

Q. Near the boundary?

A. No, sir; it was the second house; I may be mistaken in the number; it is the second house from the corner of S and 13th; I think the number is 1741.

Q. Now, in addition to these two houses, state the houses that you bought or sold or built prior to February 18, 1880.

A. Well, not a great while after Hayes' inauguration—there was an intermission—I engaged in the real-estate business not a great while after Hayes was inaugurated and continued it for a time.

Q. How long?

A. I don't know how long it was; a considerable time; I don't know; perhaps a year; but I went to Florida, if I remember correctly; no; it was after I came back from Florida that I went into this; then I went into the real-estate business, but I bought this house that I speak of on Q St. before I went to Florida; then after I came back I sold some other houses for other parties; I sold for Mr. Cammack in the same row as mine; I sold two on the opposite side of Q St. for a gentleman whose name I don't remember; he was in the office with Judge Helmick; he is now in Europe—
836 Allman; I sold two houses for Mr. Roach, in the bank up there, who afterwards got in some financial trouble; and the next transaction I had in real estate was *to* purchase of house 1881, on 12 St., prior to 1880; I can't give dates.

Q. How long were you engaged as a real-estate agent or broker prior to the 18th of February, 1880, where was your office, and were you engaged alone or as a partner?

A. I have no office now; then I had an office on 7 St., No. 513. I afterwards took an office over Mr. Waggaman's, on 7th St., a few doors above 519, I believe.

Q. Can you state how long you were in the real-estate business prior to that time?

A. I stated the first real-estate operation I had was the day of Hayes' inauguration. I bought a house before that some time. I was in Washington since that time. I have studied real estate at its value with a view of trying to make some money since & during the time.

Q. My question is, Colonel, as to the time you were actually engaged in the real-estate business in this city prior to the 18 of Feb'y, 1880.

A. Well, I have been given attention to buying and selling real estate more or less ever since I came back from Florida. I went there soon after Hayes was inaugurated.

837 Q. When did you return from Florida?

A. I think I was down there about a year. I was home here occasionally during the time.

Q. I want to fix the date you returned.

A. I can't give it.

Q. Can you give the year?

A. I can't with absolute certainty.

Q. Can you approximate how long it was prior to February 18, 1880?

A. I can't tell you the year Hayes was inaugurated. If you are coming at me on dates, sir, you will have a hard time, for candidly I can — say the date that Hayes was inaugurated. I have data, I

can get you the exact dates, but can't now remember them. I have the data at home.

Q. Please state at what time you moved into one of these 16th-St. houses and what was the number of the house.

A. The number was 1918. I have forgotten the number; along there; don't know them; it was about the middle of the row, perhaps, five or six houses from the upper end. I could not tell the data I went in there. I could not tell you the year.

Q. Was it prior to Feb'y 18, 1880?

A. Well, it was not long before Mr. Balloch transferred the property to Hooper. Now, when that date was I don't know; this
838 was only a few months before that.

Q. Do I understand you had a written agreement from Balloch as to your occupancy of the premises?

A. Yes, sir.

Q. Contract to sell the houses?

A. For selling the houses.

Q. And commission. Have you that contract now?

A. I think it is among my papers. I think I have it; don't think I have destroyed it.

Q. At what rental were you — occupy that house at that time?

A. The amount of rental was not named. I was to spend some money in preparing the house, fitting it up and furnishing it, and, being on the ground, convenient, to get a few of the houses occupied to show that it was within the bounds of civilization and try & sell the houses and have a house so I could show, and I spent this money, and there was nothing said about any rent. I was to go there and sell the houses and live in one of them. I expected to buy one of the houses.

Q. Then, as I understand you, no fixed rent was reserved by Ballock when you went in, and you paid him nothing as rent in itself?

839 A. There was a settlement made by Hooper afterward; he came up there and demanded possession; he didn't want to allow me for the outlay I had made; he didn't recognize the contract with Balloch. I told him I thought that was unjust; I did this thing in good faith. I didn't know Mr. Hooper at the time; did not know there was such a man in existence. I didn't know of no relations between Balloch & Hooper or anybody else. I simply knew Mr. Balloch as the owner of the houses and made the contract with him & went there and undertook to sell them. About the time I got ready to sell them and got in good fix for it this gentleman came up and claimed ownership for them and start-ed me by it and wanted possession. I paid no rental to Balloch.

Q. Did this agreement which you had, which you say was in writing, fix the price of the house and establish the rate of commission?

A. It fixed the commission. I am not certain that the price of the house was fixed by it.

Q. You say you were authorized to rent. Was anything fixed as to rental?

A. $30.00 per month was fixed as to the rental.

Q. You say you rented Pettit & Dripps' house and Eastwood's. What did you rent them for?

A. One for $27.50, the other for $30.00.

840 Q. Which for $30 and which for $27.50?

A. $27.50 for Pettit & Dripps' and $30.00 for Eastwood's, I believe.

Q. Now, which of these two houses *boarded* on what is called Swan street?

A. Pettit.

Q. Up to the 18th day of February, 1880, had you made any sales of real estate in the immediate vicinity of this property? If so, state its location.

A. Yes; I bought myself 12 or 13 lots on R St., just one square south, prior to this time.

Q. Between what streets was that, and on what side of the street?

A. South side of R betw. 16th & 17th.

Q. Was it vacant ground?

A. Yes, sir.

Q. Fixing your estimate of the value of these houses on the 18th of Feb'y, 1880, was the value of the ground on which they stood taken into your calculation?

A. It was in one estimate that I give; in the other it was not.

Q. Which one was it taken in calculation?

A. The ground was in the estimate which I mentioned of the houses being worth between thirty-two and thirty-five hun-

841 dred, I believe it was. I mentioned at not less than thirty-two hundred. I regarded the ground, house, premises—the whole thing.

Q. What was the value that you placed on the ground for that purpose?

A. I regarded the ground as worth somewhere between 40 and 50 cents per foot—call it 40—about the price that Mr. Riggs was asking for the square below it.

Q. Prior to the 18 of Feb'y, 1880, had you constructed any houses on your own account?

A. I had constructed some houses prior to the time that I occupied this house. I built some houses before I occupied that.

Q. Where and the number?

A. I built some alley houses on the ground I just mentioned on R St.

Q. How many of them were there?

A. Four.

Q. Had you ever built any other?

A. I built two up near the observatory before I occupied that house.

Q. Any other?

A. No; that is all I built—six houses. I done some repairs a little here and there and some of these others that I have mentioned. I had some little experience before I came here alter-

842 ing, changing, and remodelling houses down in North Carolina.

Q. What was the condition of 16th St.—of the pavement of 16th street—at the time you went into the house up to February 18, '80?

A. The water, sewer, and gas had been laid; the trees had been planted: the sidewalk and curbing was there; the middle of the street had a block pavement on it—not concreted as it is now; had *was* is called the Nickerson wooden blocks.

Q. What was the condition of it as to wear & tear?

A. Well, some parts of it was pretty ragged. It was better at this place than it was lower down. There was not so much travel up there. In places the wooden blocks had given away and made ruts in the streets, making it disagreeable driving.

Q. Was the parking completed in front of the houses; any fencing around it?

A. No, sir. There was a fence around one of them. Pettit put *it* up an iron fence around his; the others had no fence.

Q. Were the houses connected with water and gas, all of them?

A. Gas pipes were and the extension was laid. I think the meter was not in. The water was. I had water in my house and
843 water in the house I rented.

Q. You rented Pettit and Dripp-' house; did you rent any of the others?

A. Yes; I rented one other. I rented one to Mr. McNealey.

Q. What did you get for that rent?

A. I think $27.50. I am not sure.

Q. What was the condition of S St. in front of this block?

A. S street was in a bad condition; that had no pavement in the carriage-way, nothing but earth.

Q. As to the grade?

A. I don't think the grade was established through to 17th St. or not; the street itself had not been leveled; the sidewalk may have been laid. I rather think the sidewalk was laid a portion of the way.

Q. What was the condition of Swan street?

A. That is no street at all; I don't believe it is yet; there is no grade through Swan street; if it is Swan St. it is continuation of Pierce place.

Q. You speak of the*ir* being a difference in the values of the north and south houses in this row. Referring to the north house, how much was that house, in your judgment, worth at that time more than the others?

844 A. Well, I would rather have that house by two or three hundred dollars more than any of the others—$200. I reckon it is a few inches under, and, it being next to Swan street, the wing continued full width, and there are openings from Swan St.—windows—made the kitchen larger or the back room larger upstairs.

Q. Describe the interior arrangement of these houses, not including the north and south houses.

A. Cellar under the entire house; hallway entrance, parlor, dining-room, kitchen on the parlor floor or the main floor; hallway to the centre of the house; then winding stairs in the centre of the house; front bed-room on the second story the full width of the

houses; the back room over the dining-room the full width of the house; wing in the rear of that stairway from the wingway down into the kitchen independent of the other stairs; another story above that; three stories and cellar; the upper story was about the same as the second story in the front room, and in the room over the dining-room the third story was practically the same as the second story; one room left off, I think.

Q. Then, as I understand you, it was a three-story building with cellar and two-story back building without cellar?

845 A. No, sir; the cellar was under the entire house and it was concreted; these others that were not finished, I don't think that they have been concreted, two or three of them; the one that I was in was concreted and two north of me were concreted.

Q. What was the size of the rooms on the first floor in their order?

A. The hallway was about 2 feet six inches in width and extended, as I said, to the centre of the house. The parlor was the width of the house. Lots were 14 feet, I think—14 feet, about. The parlor was the width of the house less the hallway. All the other rooms in the house were the full width of the house, except the wing-room, which was the full width of the wing.

Q. What was the width of that wing?

A. It was 11 feet.

Q. 11, outside measurement?

A. Yes, sir.

Q. How deep was the main and back building respectively?

A. The back building was about twelve feet, the main building about 26.

Q. Bath-room? If so, state location and size.

A. The bath-room was in the centre space, between the

846 back bedroom and front bedroom in the main building at the top of the flight of stairs as you went up in the second story. Water-closet was, perhaps, four by five feet; it is small, but there is a bath-tub in it; it is larger than I mentioned; it'- many years since I seen it; I think the room must have been about 6 by 4.

Q. You went on to explain that there was another water-closet, didn't you?

A. I think there was a servant water-closet in the cellar.

Q. As I understand you, this bath-room and water-closet on the second floor is the only one in the building above the cellar?

A. Yes, sir.

Q. What outside ventilation has this bath-room and closet, if any?

A. I don't think it has any; Pettit & Dripp did, but this did not.

Q. Had any of them, in any of the houses other than the north and south end of the row?

A. I think not, sir; they had no ventilation out through the roof.

Q. You have described the appearance of these houses. Are they not press-brick front buildings with a continuous and uniform cornice from end to end around by window extended the whole height of the building?

847 A. Yes, sir; there is a bay window to the full height of it. They are press-brick front or beautiful red brick. I presume press brick, if not selected red. I call them press brick. Bay window extends to the roof, with a cornice or ornamental frame like balustrade from end to end on top of this cornice.

Q. Cornice is of wood, is it not?

A. The corner moulding, I think, is wood; I mean the little inch piece. The balance of the cornice is brick; the projection is brick.

Q. Of what are the caps or arches over the doors and windows constructed—the material?

A. It seems to me that it is galvanized iron. I am almost sure there are stone sills on the first floor, but the caps I could not say certainly.

Q. Can you state whether in point of fact they are galvanized iron or simply press-brick arches sprung over the tops of the windows and doors?

A. I wont be sure about that; I am not certain. It seems to me that the doors are different from the windows. I won't say whether the windows are arches with projecting cornice or bon-etted or whether it is galvanized iron. I am rather under the impression that it is some sort of metal. I won't be certain about that, though.

848 Mr. Edwards requests the witness to produce the contract entered into between him & Mr. Balloch at the next session.

Adjourned until Monday, Feb'y 1, 1886, 11 o'clock a. m.

MONDAY, *Feb'y* 1, 1886—11 o'clock a. m.

Hearing pursuant to adjournment.

Present: Mr. Moulton, for the complainant, and Mr. Edwards, for the defendants.

Mr. DILLER B. GROFF sworn and called by Mr. MOULTON:

Q. You reside in Washington, I believe?

A. Yes, sir; residence No. 1901 11th St. N. W.

Q. How long have you lived in the District of Columbia?

A. 14 years.

Q. What is your business?

A. I am a carpenter and builder.

Q. How extensive has been your operation in the District in the line of building?

A. It has been quite extensive in the last 10 years.

Q. Give us some idea how much.

A. I have built and sold over five or six hundred houses in that time.

849 Q. Are you acquainted with Mr. Balloch, plaintiff in this suit?

A. I am. I have a slight acquaintance; know who he is.

Q. Do you know the property which is the subject of this controversy, situated at the intersection of 16th & S streets N. W.?

A. Yes, sir.

Q. What knowledge have you of the value of real estate in the

vicinity of this property along, perhaps, in '79 or '80—means of knowledge?

A. I have made some purchases right in the neighborhood and I have been handling property in that neighborhood for the last six years.

Q. Bought and sold property near this?

A. Yes, sir.

Q. How often have you seen these houses that Mr. Balloch built?

A. Very often during 1879–'80. I suppose I saw them nearly every day from a distance.

Q. What kind of houses were they as to their size, upper stories, appearance, &c.?

A. They were three-story brick houses, square bay window-. I believe they had cellars.

Q. Did you know of the value of real estate in this vicinity in '79–'80?

A. Yes; I purchased some down there in '79.

850 Q. Do you remember the north houses in this row of Mr. Balloch'- of 16 St. that were completed in the early part of 1880?

A. Yes; I know them.

Q. Do you know whether or not some of the north houses in the row were completed about that time?

A. Yes, sir; there were some three or four finished up on the north end of the row, and the lower ten were all plastered, to the best of my recollection. I think there is 14 in the row.

Q. What was the value of the houses that were completed at that time, about Feb'y, 1880?

A. I suppose the value about $3,500.00.

Q. Fair market value for them?

A. Yes, sir.

Q. What have you to say as to the suitableness of these houses as an improvement on that location at that time?

A. Well, they were an improvement on any houses that had been built there; they were better than any class of houses around there.

Q. State, if you know, the character of the workmanship and material used in these houses.

A. Well, I don't know. I was not in the houses. I saw the material as I passed to my place; it was the same material as used in ordinary houses. I was in front several times and seen the bricklayer- at work; the lumber was merchantable and it is

851 the kind of lumber you would use on houses of that kind. Everything that I saw — done in the usual way or built with the usual kind of material. I didn't see anything mean about the stuff or anything of that sort.

Q. What would you say as to the workmanship, bricklaying, &c., so far as you saw it?

A. That I considered good. Mr. Sterling done the brick-work. When I say that I saw them every day I mean I saw them at a

distance from my own building, but I went over to them quite frequently, but didn't go into the houses.

Q. State whether or not you were able from these visits and opportunities to determine or to know the state of the improvement at the time to which I have referred, Feb'y, 1880.

A. If I understand aright, the three or four north houses were completed, and my recollection of the matter is that there were ten houses that were all plastered and white-coated; and then you come down to the last four. Several of these were topped out, and the last one, I think, had the second-story joist on—the corner of 16th & S streets.

Q. Then I understand from your answer that you was enabled to observe the state of the improvements at this time?

852 Objected to by Mr. Edwards.

A. I understand you want to know what my opportunities were. I don't know how to state that at all. I don't know whether you would call — good or not. I simply know that I visited them occasionally and saw enough of the material to know what kind of material it was that was used in the buildings.

Q. Did you see enough of the improvements as it then was to enable you to estimate the amount necessary to complete the houses?

A. No; I don't think I did; it would be necessary to go inside to do that.

Q. Now, sir, you say that you saw these houses from your improvement. Where was your improvement located?

A. The next square northeast from it.

Q. How many houses were you building there?

A. I was building 30 houses—24 houses on T St. betw. 15th & 16 and 6 on 15th St. They started at 15th an- ran through to 16th St.—the whole block.

Q. What would you estimate to be the value of the houses that were completed, independent of the lot of ground upon which they stood, on the 25th Feb'y, 1880?

A. Well, I think houses of that kind worth about $2,800.00 to build them.

853 Q. The entire row, down to the south corner—to the corner house at the corner of 16th & S Sts.—were all alike, I believe, were they not?

A. All but the corner of 16th & S Sts.

Q. And would be of like value, when completed, as the houses that you have estimated?

A. Yes, sir.

Cross-examination by Mr. EDWARDS:

Q. When did you commence to build your houses on the north side of T between 15th & 16 Sts.?

A. In the spring of 1879, I think.

Q. Did you commence to build at that time the whole row from 15 to 16th Sts.?

A. Yes, sir.

Q. When did you complete them?

A. Complete- them that summer.

Q. When?

A. Well, they commenced being finished about July. Of course, they were not all finished in one day or one month—say from July to November.

Q. Then, as I understand, you were engaged in the construction of this T-St. row that we speak of from the spring of '79 until about November of the same year?

A. Yes, sir.

Q. After that did you construct any houses in the same square?

854 A. Yes, sir.

Q. Where?

A. Caroline street.

Q. When?

A. Right along. I just continued while I was building the T-street houses I kept building the Caroline-St. houses.

Q. When did you finish the Caroline-St. houses?

A. I presume I got through with those about the middle of the summer.

Q. Of what year?

A. The next year—1880.

Q. Could you see the houses involved in this suit from Caroline street?

A. Well, from one end of Caroline St. I think I could; I am not positive about that.

Q. You state that you- understand- of these houses on 16th street is that they were all of the same size and finish except the corner of 16th & S streets. Ain't you mistaken about the north one, bounded by Swan street? Was not that a wider house and differently constructed?

A. It did look so to me.

Q. Have you any information on that subject to enable you to testify just how that house was built? Can you tell if the back building was the whole width of the lot or simply like the other?

855 A. I think the back building was the — dimensions as the others because it had some side lots.

Q. If it was, in point of fact, six inches wider and bounded by an open street or alley, as the case might be, what would be the difference in its value as compared to the others?

A. It would make some difference, being on the corner, but I didn't know there was a street running through there. There is nothing there to show it.

Q. Did you have any occasion to notice whether there was any windows in the north walls of that house?

A. I think there is a window in the north side; yes.

Q. Assuming that that house is bounded on the north by a street or alley of a width of 40 feet, and that it was six inches wider than

the other houses, and that the back building was the whole width of the lot, what difference, if any, in the value would it make?

A. I would call it worth $4,500 more than the rest.

Q. Can you give the size of these houses—that is, width and depth of back building?

A. No, sir; I cannot.

Q. Can you tell how many rooms there were in them when finished?

856 A. Eight rooms, I think, beside the cellar. Three rooms on the parlor floor. I think there is three on the next floor and two on the last—little attic—sort of French roof appearance from the front. I visited them quite often. I was well acquainted with the bricklayer, and while he was building I was there quite frequently.

Q. You understood that these houses were being built to sell, did you not, Mr. Groff?

A. Well, I thought so because I had heard from rumor Mr. Balloch was putting them up for sale.

Q. Now, you are speaking of brick-work. You have seen the brick-work in these houses recently?

A. No, sir.

Q. State the character of the brick—whether press, merchantable brick; if pressed, quality of them, according to your recollection.

A. They were select red brick, to the best of my recollection, laid in black mortar, and the balance of the houses were merchantable brick.

Q. Do you recollect the character of the arches or trimmings over the doors and windows?

A. I think they were plain brick arches in the houses.

Q. Do you recollect the character of the sills? Were they wood, stone, or galvanized iron?

A. No; I don't. They were either stone or iron, though.

857 Q. How about the cornice—can you describe what that is constructed of, whether brick, wood, or iron?

A. The cornice is wood, I think.

Q. Did you say that you had recently seen these houses, Mr. Groff?

A. No; I said I didn't see them recently.

Q. How long since you have seen them?

A. I suppose about three years ago.

Q. Do you *understand* to say that in your judgment as a mechanic or builder that the work on these houses was a first-class job as to material and workmanship?

A. What I saw of it I couldn't find any fault with it at the time I saw it.

Q. Are you able to state whether, in Feb'y, 1880, the roofs were on the north ten houses or not with any degree of certainty; and, if so, what enable you to fix that date?

A. You are speaking of Feb'y, 1880. I am speaking of the year after I commenced building. I confine my testimony pretty much to that.

Q. Why do you confine it to that period?

A. I remember seeing them white-coated, and parties that used to come to look at these houses would look at my houses at the same time. I frequently met people in the summer of 1880. They had been over to look at these houses.

858 Q. Ain't your knowledge of the condition of these houses as to the fact of being white-coated more particularly identified with the summer of 1880 instead of the spring?

A. No.

Q. Can you say as to the matter of fact that these ten houses were white-coated—the ten north houses were all white-coated—or that the roofs were on all of them in Feb'y, 1880?

A. The best of my recollection they were.

Q. Is there any particular circumstances that enables you to fix this portion of the year—anything occurring or any date?

A. No; nothing that I can remember. I am trying to think of something that would fix the date, but it is about the—I am pretty certain it was the spring of the following year that I had commenced to build there.

Q. Have you anything that fixes your mind that the plasterers were not at work there white-coating as early as Feb'y or in the winter even of '79 and '80?

A. No, sir.

Q. Now, I ask you particularly concerning the condition of the roofs. Can you say in point of fact the roofs of all these

859 north ten houses were on that date, Feb'y, 1880?

A. I certainly think the roofs were all on or they would not be plastering.

Q. You say that in your judgement those houses in Feb'y, 1880, completed, were worth $3,500 each?

A. Yes, sir.

Q. The value of the ground at that time, I suppose, entered into your calculation, did it not?

A. Certainly. I didn't mean the houses alone, I me-nt house and lot.

Q. At what value did you fix the lots per square foot?

A. I don't know the depth of the lots. Lots in that neighborhood were worth at that time eight or nine hundred dollars a lot—building lot.

Q. How much per square foot would that be in your judgement or how many square feet did you estimate the lot to contain as a basis for that value?

A. Well, I suppose ground was worth there from 50 to 60 cents per foot; it depended upon the amount of improvements around it—convenience of sewers and so on.

Q. You are testifying, Mr. Groff, concerning the value of these houses at that time; but I suppose that you took into consideration what were the surroundings as to improvements, streets,

860 sewers, and so on. Now, in the condition that the property and the surroundings at that time I wish you to state what, in your judgement, was a fair value per square foot for the ground

on which these houses stood. I exclude from this the north house and the south house, because the lots are different sizes.

A. That make- quite a difference in the price of ground. If you are not allowed to take the corner in, allowing some one else to take the corners, for the north house the corner might be worth a dollar per foot and the inside ground seventy-five cents per foot; ground around these entire lots would be reasonable at 50 cents per foot.

Q. Then, I understand you as excluding the north lot bounded by Swan St. and the south lot bounded by S street, your estimate of the value per square foot of the other lots is fifty cents. Now, upon what depth do you base that?

A. 80 to 110 feet.

Q. You say you bought property and constructed houses on T street in this vicinity that was in square 190, was it not?

A. Yes, sir.

Q. When did you buy that property?

A. I think it was in Feb'y, 1879. I bought it all in a lump.

861 Q. The whole square?

A. Yes.

Q. Did you make sales of any of your T-street houses in 1879 or '80?

A. I don't think of any in 1879.

Q. Did you in 1880? If so, during what period?

A. I could not tell the dates. It was during the early part of the summer or fall. It might have been in the summer of 1879 or spring of '80.

Q. What did you get for them?

A. I don't remember the value. The- were different prices. Some of them I had engaged before I completed them and I was stuck on them. I sold them for less than their value.

Q. Tell us what you got and I will give you the benefit of your explanation.

A. I don't remember the figures any more. It seems to me that some of them sold for $3,600 and others as high as $4,200.

Q. When were those that sold for $4,200 sold?

A. I don't remember the date.

Q. They were the last on T street and was not that the highest price that you got for the T-street houses, exclusive of the corner?

A. Oh, no.

Q. What was the highest price you got for the T-street houses?

862 A. Well, the highest price was $4,500 and I had been offered five thousand and refused it.

Q. I am speaking during 1880.

A. I don't remember any sales during '80, except what I speak of.

Q. Were these houses on T street all of the same size, material, and finish?

A. No; some had 20 feet front and some 17½ and the depth of the lots was different and the main building of some of the houses

was a foot shorter than the others. Some had square bay windows and some octagonal.

Q. There was no lot of less than 17 feet in width and 80 feet in depth?

A. That plat shows there. I don't remember that.

Q. That is your recollection of it, is it not?

A. Yes, sir.

Q. How many rooms were there in these houses, the smallest one?

A. They all had the same number of rooms—nine rooms, besides the bath-room and store-room.

Q. Cellar under them?

A. Yes.

Q. How was the front and inside finished? Did the workmanship on these compare with what you say of Balloch's houses on 16 street?

A. They were about the same.

863 Q. How about the finish of the front as to material, trimmings, work, and so on; which was the best?

A. That, I think, was the same; stone sills and arches over the windows.

Q. How deep was the main building of these houses on T St.?

A. 30 feet.

Q. The back buildings?

A. 16.

Q. How wide was the back building?

A. 12 feet.

Q. Which way did the hall and stairs run?

A. They had a hall and the stairs run with the hall.

Q. The stairs run with the hall as you entered from the front?

A. Yes.

Q. And they were connecting rooms, were they not?

A. Yes, sir.

Q. Do you recollect the interior arrangement of the Balloch houses on 16th St., how they were as to stairways?

A. The stairway ran in between the two front rooms.

Q. The two rooms of the main building?

A. Yes, sir; a passage ran to the stairway that was behind the stairway, in the centre.

864 Q. Had the bath-rooms in your houses any ventilation?

A. No, sir; none except the window.

Q. Had the window opening on the outside?

A. It required to have an opening on the outside.

Q. Opened out onto the areaway, did it not?

A. Yes.

By Mr. MOULTON:

Q. Is there any difference in the valuation of real estate on 16th St. and O or T St. in the vicinity of this Balloch improvement?

A. On 16th St. is worth more than it is on the cross-streets, main north and south streets.

Q. Worth considerably more?
A. Oh, yes.

Adjourned until Wednesday, Feb'y 3, 1886, at 11 o'clock a. m.

865 THURSDAY, *July* 8, 1886—2 p. m.

Hearing pursuant to agreement.

Present: Gen'l Henkle and Mr. Moulton, for the complainant; Mr. Edwards, for the defendant-.

Mr. ALBERT W. BINGHAM sworn and called by Mr. EDWARDS:

Q. You reside in this city?
A. I do; at the corner of K and 8 streets.
Q. You know the defendant Wm. R. Hooper?
A. Yes, sir.
Q. How long have you know- Mr. Hooper?
A. I should say 17 or 18 years.
Q. Do you recollect the conveyance by Mr. Rob't A. Balloch to Wm. Hooper of certain houses on S and 16th streets N. W. in the spring — 1880?
A. Yes, sir.
Q. At that time or about that time did you visit the 16th-street houses then in course of erection?
A. Yes, sir; I was there a number of times.
Q. Please state what was the condition of these 16-St. houses at that time, and for identity they are numbered, corner house 1601 S street, and the other- from 1802 to 1822, both inclusive, which, with the corner house, makes 12 houses in all.
A. The corner had been started; the basement dug out; the wall put up above the basement; you might call it just started;
866 no flooring or anything done there except the wall was a little above the ground. The next house the wall was up a little more than that. The next house a little higher still—that is, 3 houses; that would be 1802, 1804, & 1806; the front wall was up above the second story; it had a scaffolding in front of it, I remember, and the floor joists were laid up in that second story. Now, 1808 went up, I think, to the roof, though no roof was on it. They started from that house and tapered down to nothing. The next house, 1810, had the roof on and was partially finished; it was plastered and some of the carpenters' work was done; considerable of it was done; there was no latrobes in it, no mantels in it, and all that kind of work. The house was in that state of completion that it was plastered; the banisters were not up to the stairs. I think 1810, 1812, 1814, and I think 1816 were in that same condition. I have forgotten whether 1818 was the Hester house or not. Then 1818 and 1820 were along further; they were primed. They were in a little further state; not much better, but just a little
867 more so. The Hester house I don't think — went into; it was occupied. It had been occupied when I was going out there frequently. I don't remember so much about that.

Q. Then, as I understand you, the 5 southern houses of the 12 had no roof on at all?

A. No, sir; not as I rem-ber it.

Q. Please state whether any of the other houses up to 1822 had any ranges, windows, mouldings, plumbing, bath-tubs, gas fixtures, or steps.

A. No, sir.

Cross-examination by Gen'l HENKLE:

Q. Mr. Bingham, how many times did you visit these houses—I mean about the time of that conveyance?

A. Well, I should say a dozen times.

Q. Do you know what date the conveyance was?

A. No, sir; I can't state the exact date.

Q. Was it anywhere about the first of the spring?

A. No; I should say along in Feb'y or M'ch.

Q. How did you know about the conveyance?

A. Well, I was in the same office and division with Mr. Hooper; we were together a great deal, and I heard it from him.

Q. In the same room?

868 A. No; in the same division of the office, but my business called me into the same room a dozen or more times a day.

Q. You were very good friends, and he consulted you about his business?

A. Yes, sir.

Q. He told you all about those houses and took you there frequently to see them?

A. No, sir; he sent me up there?

Q. What was the occasion of your going up there; why did he send you up there?

A. He said he could not attend to it; he wanted me to look to some things for him.

Q. You were looking after those houses?

A. Well, yes, in my way.

Q. Were you employed by him to look after them?

A. Not remuneratively.

Q. What do you mean by looking after them; were you given any directions about that?

A. Well, I got the steps made; I made a contract for him for painting one of the houses and two or three things of that kind to help him out.

Q. You got the steps made for how many of the houses?

A. Just one.

Q. What kind of steps were they?

A. They were iron steps, made by Pettit & Dripps.

Q. What house was that?

A. My impression is that it was 1816.

Q. Why did you get the steps for one house?

869 A. Because he finished that one house first. It was the first house that Mr. Hooper finished.

Q. How many houses was that from the corner of S street?

A. Well, that was one of the first houses under roof. I said it was 1816, but it was number 1810 or 1812; I am not sure which.

Q. Numbered 1810 or 1812 from the south corner?

A. Yes, sir.

Q. And that was ths first house he finished?

A. Yes, sir.

Q. What was the condition of that house when you got the steps?

A. Well, when I was there—I don't remember exactly just when I got the steps, but in the house, as I stated before, the plastering was done and the carpenter work was done; the stairs had to be fixed or remodelled; I forget just what.

Q. The stairs were up?

A. I don't think the banisters were up, but the stairs were.

Q. And the plastering was done?

A. And the plastering was done.

Q. And the carpenter work done?

A. Not entirely; the border had to be put on and the doors had to be hung.

Q. It lacked simply the trim-ing up; wasn't that it?

A. Well, practically it lacked the trim-ing up.

870 Q. Save the trim-ing up the house was done?

A. Well, it would take considerable to trim that out.

Q. I am not talking about that. All the substantial part of the house was done?

A. Yes, sir; of that house.

Q. Now, you spoke about baths. Were there — in these house-?

A. No; none, sir; there was a place for bath-rooms.

Q. But there was no baths in the house-?

A. No, sir.

Q. Are there now?

A. I don't know; I haven't been there since they have been finished.

Q. Mr. Hooper finished this house, did he?

A. Yes, sir.

Q. When regarded as finished was there any bath in it?

A. Yes; I think there was.

Q. He put in a bath-tub?

A. Yes, sir; I think he did.

Q. Are you sure about that?

A. I am not sure of seeing it myself, as I don't remember that I did see it, but I have heard the men talking of changing the bath-room or changing the plans. I know that it was done. It was put in over the kitchen instead of being put in where originally intended.

871 Q. Did Mr. Hooper change the plans for the purpose of putting in a bath-room, which was not contemplated in the original plans of the house?

A. He did change the plan.

Q. Was the bath-room contemplated in the original plans of the house?

A. It was.
Q. He simply changed the location of it?
A. Yes, sir.
Q. What else did you do there by way of supervising the improvements?
A. That is about all, I think.
Q. That is about all you did?
A. Yes, sir.
Q. And that, you think, was in the spring of 1880?
A. 1880 is my recollection.
Q. Feb'y or M'ch, you think?
A. It strikes me that that work was done a little later than that; I can't recollect; I think this work was done a little later than that.
Q. And you think you have a pretty definite recollection as to the condition of the house?
A. Well, a general recollection, as I wouldr ecollect anything of that kind I was interested in.
Q. You had no interest save that you spoke of as a friend of Mr. Hooper?
A. That is all.
872 Q. Did you continue to visit the houses as they progressed toward completion?
A. No; I did not. No; my circumstances were such that I could not do it, but felt an interest in it and kept inquiring of him about it.
Q. Of course, I am only inquiring about your own knowledge, Mr. Bingham. What was the condition of the houses beyond 1810, north? That house had a roof on when you first saw it?
A. Yes, sir.
Q. 1810, 1812, 1814, and 1816 were in that same condition—that is, they were finished except as to trim-ing out?
A. Yes, sir.
Q. Well, that is 1810, 1812, 1814, and 1816?
A. 1818 and 1820, I think, were trim-ed; a little more than the carpenter work done.
Q. They were nearer finished?
A. Nearer finished.
Q. Well, now, did that comprise them all?
A. There were 22; the Hester house I did not go into.
Q. Was that occupied at the time?
A. Yes; by Mr. Hester.

Redirect by Mr. EDWARDS:

—. You have stated, Mr. Bingham, that the houses needed trim-ing out; did you confine your answer to trim-ing out as to car-
873 penter work alone, or trim-ing out as to plumbing, ranges, latrobes, concrete, and the like?
A. I supposed that answer would comprehend the condition that the house was in such a stage as that. Now, you take a house that needs trim-ings out; the washboards are to be put on, and a house in that condition could not very well have the latrobes, and the concreting was not done, and the plumbing wasn't in, gas fixtures

were not in, or anything of that kind; it was in that shape, without those things.

Q. Now, you think that the phrase "trim-ing" out did not include those matters that I have mentioned?

A. There were no latrobes, no gas pipes laid from the str., nor none of those things; the sewer connections were not made in any of the houses.

Q You have also stated that the bath-room was changed. Please give the location, Mr. Bingham, w-ere the bath-rooms in these houses were to be as originally planned.

A. They were dark bath-rooms—that is, having no outside light except the skylight. They were right in the middle of the house, up in the third story of the house—that is, as originally plan-ed. It was thought best by Mr. Hooper, and I know I advised
874 him, to change that and put that bath-room over the kitchen, in that room ordinarily used as a servant's room, being lighter. I am sure I considered it very objectionable where it was originally plan-ed.

Q. Are you clear in your recollection, Mr. Bingham, whether it was on the third floor? Was it not on the second floor?

A. That is a fact; it was on the second floor. My idea of that was I tried to get him to move it into the third floor; that was the first idea.

Q. Do you recollect of any notice or have you any knowledge yourself of any notice being served or any action taken by the health authorities concerning those bath-rooms?

A. No, sir; I don't know of any.

Mr. CHAS. C. DUNCANSON sworn and called by Mr. EDWARDS:

Q. State your occupation, Mr. Duncanson.

A. Auctioneer and dealer in real estate.

Q. You have been engaged in that business how long?

A. I suppose 22 or 23 years.

Q. How long have you been in that business in the Dist. of Columbia?

875 A. I have been in that business in the city of Washington for that length of time.

Q. Are you familiar with value of real estate and have you had experience as an auctioneer and dealer in real estate which enables you to fix the values of property in this city from the period of 1878 to 1879 down to the present time?

A. Quite as much so as any man could possibly have.

Q. Have you made sales of real estate and bought and trafficked in it, have you?

A. Yes, sir.

Gen'l Henkle admits the witness is qualified to testify as to the value of real estate in this city to the period mentioned.

Q. Are you familiar with property in square 177, bounded by S & T Sts. & 16th & 17th streets N. W., in this city?

A. I am.

Q. I wish you would state what, in your opinion, was a fair value of the ground on the 16th-St. front of this square during the years 1879 and 1880 per square foot.

A. Worth about from 35 to 40 cents.

Q. What, in your judgement, was the value of the S-St. front of that square during the same period per square foot?

876 A. About 25 cents.

Q. The plat, Mr. Duncanson, of this square shows that the street called Swan St. is laid out, having a width of 40 ft., and certain of the property involved in this case fronts on the south side of that street, being vacant lots, having about 100 feet front by about the same depth and containing about ninety-eight or ninety-nine hundred square ft. of ground.

A. Swan street, it is true, is laid out on paper, but that *it* is about all it is out in that neighborhood.

Q. I am stating as it appears on the plat. What, in your opinion, is the value per square foot of that ground during the period we are speaking of?

A. Well, in the neighborhood of 10 cents.

Q. Describe the condition of this square during this time as to grade and as to the streets bordering on it, if you can recollect their condition. I am speaking now of 1879 and 1880.

A. The square was below grade; in fact, a portion of it is still below it. Water is standing on it. Possibly it is a good deal better now than it was during those years. New Hampshire Ave.

877 cuts across the northwestern corner of this square. That was a little more below grade than this 16th-street fron-. At the same time this square was all below grade, and so much so that stagnant water would stand on it to a considerable extent. It was not a very desirable square in this condition.

Q. Now go on with the improvements of the streets. Take 16th St.; how was it improved?

A. 16th street was improved by a wood pavement in a decayed condition.

Q. S St. now?

A. S street is not paved; no concrete pavement; there was a dirt street there, and I do not think there is any brick pavements there, if my memory serves me right. Swan St. is not paved over—not graded.

Q. Any sidewalk on it?

A. No sidewalk on it; there is an entrance to it, I believe, from 16th St.

The defendant *avers* in evidence a sketch of this square, showing this Swan. Str. and the property under consideration, with the exception that the original plat of the subdivision show- this St. and property improved; marked Defendant-' Ex. No. 1.

Q. Have you recently examined the plat of that square?

878 That will enable you to state whether this sketch — is now hand- you conforms to Swan Str., and particularly in regard

to the projection of 20 feet that your attention is called to, opposite the west line of the Swan-Str. lots.

A. This sketch of the plat is about correct. Swan Str. opens at 16th Str. 40 feet; about 200 ft. from 16 street here (indicating) it narrows to 20 feet by reason of the offset of lot branching in from 17th street and New Hampshire Ave.

Q. What effect, Mr. Duncanson, in your opinion, does that projection there have on the property fronting on Swan Str., particularly these lots, as to their value?

A. Well, the effect that it would have to one not acquainted with real-estate transaction- would be quite different from that which it would have with me or some other person- who have a thorough knowledge of real estate. I mean by that some man who would wish to purchase it, who did not make a regular business of buying and selling real estate and know what could be done with regards to clearing that obstruction, it would have considerable effect in regard to the price he would have to pay for it.

879 By Gen'l HINKLE: He has asked you as to your opinion.

By EDWARDS: That is all, Mr. Duncanson.

A. Well, I would not give so much for these lots as at present, platted as if it ran through the whole width.

Q. Have you recently visited this property for the purpose of inspecting the improvements on it?

A. Yes, sir.

Q. I refer to the row of houses on 16th St. and the six houses on S street, square 177.

A. Yes, sir.

Q. There are 12 houses on 16th Str. involved in this suit; 11 of them have a front of 14½ ft., the corner house on 16th Str. being wider. What, in your opinion, would be the value of the 11 houses, exclusive of the ground, which are uniform in size & style, if they had been completed as they are now in Feb'y, 1880?

A. If completed I suppose they could be bought for from eighteen to nineteen hundred dollars each, being built in a manner in which they are in the row.

By Gen'l HENKLE:

Q. You mean they could be built at that time?

880 A. I think so.

By EDWARDS:

Q. What, in your judgment, was the value of each of the 6 S-street houses—I mean the houses alone, not including the ground—at that time, the houses being of uniform size and style?

A. About $1,700 each.

Q. What effect, Mr. Duncanson, did the subdivision of the 16th-street front of this square on which these houses stand have upon the value of the property, they being but 14½ ft. wide each, as to all excepting the corner one?

A. I think there was a great mistake in subdividing in that manner.

By Gen'l HENKLE:

Q. A mistake in making them narrow?
A. Yes, sir.

By Mr. EDWARDS:

Q. Did that estimate of value of the ground on the 16-street front also include the corner lot 16th & S streets? If not so, what do you consider it worth in 1879 or 1880?

A. The corner is worth more. The value placed on the ground on 16th-St. front heretofore by me did not include the corner.

881 The corner lot was worth about that time from 55 to 60 cents.

Q. What do you consider the value of the ground of the 11 lots, not including the corner, per square foot at the present time on the 16th-Str. front, built on as they are?

A. Not over a dollar.

Q. Now, the corner lot 16 & S streets, the value of that?

A. That is about one dollar and a half.

Q. What is the value of the improvements on each of the 11 lots, not including the corner, at this time, in your judgment, Mr. Duncanson?

A. I don't think that the improvement- are worth any more now than they were at the time of building, and from that period up to the present time the wear and tear possibly enhanced the price of what it would cost betw. now and then to build.

Q. What, in your opinion, is the present value of the lots per square foot of the S-street property?

A. I think about 60 cents.

Q. Are the improvements on each lots?

A. The improvements would be about the same as in 1879 or 1880.

Q. State your judgment of the value of the Swan-street lots at the present time per square foot.

882 A. On Swan street I expect they would bring about 40 cents; from 35 to 40.

Q. Has 16th St. been improved since 1879 & 1880; if so, in what manner?

A. There is an improvement there by reason of concrete pavement having been placed there; also several handsome residences going up.

Q. I am speaking of the surface improvements.

A. The street is improved by reason of the wood pavement being torn up and concrete put down.

Q. What, if anything, has been done to S street?

A. S street has not been improved.

Q. It is gravelled even?

A. It is a dirt road.

Q. Is there any pavement on the south side of S street?

A. No, sir.

Q. Is there any pavement extending the whole front of the north side of S St.?

A. No, sir.

Q. How far does the brick pavement extend?

A. To the west end of these six brick houses.

Q. Describe the character of the improvement on the 16th-street front, Mr. Duncanson, in a general way, as to class of material and workmanship.

883 A. They are three-story press-brick fronts; they have iron bases for the window, iron window sills, & iron steps going up to the fron- door. The manner and style of building is that of the cheaper class. The wood-work is plain pine, stained and painted inside. The interior plan of the building is not one that a gentleman would naturally build for his convenience and comfort. If anything, it is against a two-story back building.

Q. You have not stated the class of the work and material.

A. I stated that the work was of the cheaper class and the material of the plainest kind. The wood-work was pine, stained.

Q. Now describe the character of the work in material improvements of the S-St. houses.

A. The S-street houses, in my opinion, were far more saleable houses, from the fact of having greater width in fron-, and which could be improved in front without so much cost as would naturally be incurred to make changes.

Q. As to workmanship and class of material, how does it compare with that of the 16th-street houses that you have described?

A. Well, the work amounts to about the same, I believe.

884 Q. In 1879 and 1880, Mr. Duncanson, what was the condition of property in the vicinity of this square in demand? What was the condition of the real-estate market in that section of the city during that period, do you recollect?

A. Well, in 1879 and 1880 there wasn't any very great demand for property anywhere around that neighborhood. The property has been up to higher figures about 1873, but it dropped down again.

Q. Did it recover its value subsequently to 1880? If so, about when did it first commence to increase?

A. It commenced about the latter part of 1882 and 1883; in fact, about the middle of 1883 property in that neighborhood began to take what we call a "boom."

Q. The house on the west side of 6 street, in what is known as the market-houses quare, betw. O & P streets, is also involved in this case. Please state whether you are familiar with that row of houses on the west side of sixth, betw. the streets named.

A. I am.

Q. Are you acquainted with the value of real estate in that square in 1879 and 1880?

885 A. Yes, sir.

Q. The house we spoke of, Mr. Duncanson, is near the middle of the square. There being two different classes of houses, so far as height is concerned, if you recollect some being on a terrace higher than the others, what, in your judgment, was that house worth in 1879 and 1880?

A. The house and ground was worth about $4,000 or $4,300.

Q. What is it worth now in your opinion?

A. Well, I suppose it is worth about $4,800.

Q. Two other houses involved in this case are located on the northwest corner of 2nd St. east & Mass. Ave., known as the Archer houses. What, in your opinion, were those two houses worth each, including the ground, in 1879 and 1880?

A. The corner house is very peculiar and has a right good front on 2nd, but it runs right to a point; it is what is called a triangular lot.

Q. Now, state its value.

A. From thirty-one to thirty-three hundred dollars.

Q. What was the other one worth, then?

A. From $2,200 to $2,300.

Q. And their values at the present time.

A. I don't think they are worth much more now.

886 Q. Is there any particular difference or any difference as far as you are aware in the value of property in this locality we are speaking of since 1879 and 1880?

A. There has been a difference in vacant ground—improved property—in fact, in this immediate vicinity there is very little improved property, so there is no very good chance to judge any more than on the difference of vacant ground. That ground is worth no more now than it was in 1879 or 1880; that is the figures I place on it in 1879 and '80 on account of it being such a small lot.

Cross-examination by Gen'l HENKLE:

Q. Mr. Duncanson, I don't want to ask you much. I doubt not but what you are testifying honestly what you believe. You said that these 16th-Str. houses would have cost $1,800 or $1,900 to build in 1879 or '80. I don't know what you stated it would cost to build the corner house. Will you be kind enough to state that?

A. The corner house would cost—I didn't go inside the corner house, so I am only basing my estimate now upon my outside look and judging that it was built of the same class of material as the other houses—I suppose the corner house would cost $2,700

887 or $2,800 to-day; probably a little more, because that has bow windows.

Q. Now, you are assuming that it was the same class of material and workmanship as the others?

A. Yes, sir; I am judging from outside appearance, and that the inside was of the same class of material.

Q. And you have never seen the inside?

A. No, sir.

Q. Then you are not qualified from any actual knowledge to speak of the value of the house?

A. I think not; I should prefer not, anyway.

Q. Mr. Duncanson, you say that in your judgment those Swan-street lots were worth in 1879 and '80 about 10 cents?

A. Yes, sir.

Q. Do you know what they were sold for? Do you know what Mr. Balloch paid for them?

A. I don't know any of the prices that Mr. Balloch or any one else paid for ground in this square—that is, in regard to the property about which I have been interrogated. I base my opinion on that which has been sold adjoining these squares.

Q. Mr. Duncanson, be kind enough to state what property was sold in an adjoining square or corresponding value with this property on Swan street by which you estimate.

888 A. I can answer that, with the exception of the corresponding value, by stating that the property which was sold in the adjoining square did not correspond, because it was worth more from the fact of the street being open, and that was Lake St., which is immediately east, in square immediately east of square 177. Lake street if continued would be Swan St.; ground the- sold for 11¼ cents at auction in 1880.

Q. What time in 1880?

A. In June.

Q. How much ground was sold at that time?

A. Five lots.

Q. Do you know the size of them?

A. I do not recollect particularly; about 100 feet was the front, I think, by about 90 feet in depth.

Q. That is an aggregate?

A. I think so; yes; I could not give the exact dimensions.

Q. Was it sold under a deed of trust?

A. No, sir; it was sold for an old gentleman down here, Mr. Murray.

Q. Is that the only sale that you know of in that neighborhood?

A. Yes; on intermediate streets.

Q. And you form your estimate from that single sale?

889 A. Yes; I believe that is the only intermediate street that is anywheres near; well, on Oregon street, I made a sale there.

Q. How far west is that?

A. 17th St. intervenes, and New Hampshire Ave.; it is bet'n New Hamp. Ave. and 19th St. on the west, 18th and New Hamp. Ave. on the east, S on the south, and T on the north.

Q. Now, Mr. Duncanson, I understood you to say, did I not, that you formed your estimate of the value of this property on Swan St. from that single sale that you have spoken of?

A. I did, sir; but correct myself from the fact that there was another sale which occurred in Oregon street.

Q. You now remember another sale?

A. Yes, sir.

Q. It is two squares further west?

A. On the second square west.

Q. At that time was not that property a very much less value than this?

A. No, sir; I think not; if anything it laid better.

Q. Well, how was it as to its geography; was not this other more favorable as to location?

A. Oregon street, I think, had the preference.

Q. And that was sold for how much?

A. It was sold for Wm. F. Mattingly, trustee.

Q. What did it sell for?

890 A. Nine and three-quarter- cents.

Q. Was that at auction?

A. That was at auction, sir.

Q. Under deed of trust?

A. Under a chancery sale; I suppose there was a trust on it.

Q. You think that as a sale at auction, upon peremptory sale, is a good test as to the value of property?

Objected to by Mr. Edwards because the question is not sustified by the premises.

Q. Well, from such a sale as you have spoken of.

A. I think from the number of bidders who were present that it was a large sale and that it was a fair criterion to judge by.

Q. Suppose you had been informed or were now informed that these Swan-street lots were sold at 30 cents a foot at private sale. How would that effect your estimate?

A. I would say the seller was a lucky man.

Q. It would not influence your judgment as to the value of property at all?

A. It would not change my oppinion as regards the value of that property at that time, sir.

Q. Mr. Duncanson, will you be kind enough to tell us now what you estimate at the present time the value of these S-street houses?

A. Do you mean the house and lot?

891 Q. House & lot; yes.

A. Ground and house, $2,700 or $2,800.

Q. Do you think they are worth as much now as in 1880?

A. The houses are not; the ground is worth more.

Q. Take the ground and house together, they are worth just as much now as in 1880?

A. Yes.

Q. Are they worth any more?

A. Yes, sir.

Q. How much more?

A. Well, the ground was worth then about 25 cents and is worth now about 60, a difference of about $600.00.

Q. Worth about $600.00 now more than they were in 1880?

A. Yes, sir.

Q. How was it in 1882?

A. About 1882 the property wasn't worth any more than it was in 1881.

Q. Was it worth any more in 1882 than it is now?

A. No.

Q. Is it worth more now than it was in 1882?

A. Yes, sir.

Q. Now, Mr. Duncanson, don't you know that these houses were sold in 1882 at $3,000 or $3,300 apiece?

A. I do not, sir.

892 Q. Well, that is the fact. How does that effect you- value? Supposing that to be so, how would that effect your estimate as to value?

A. Value- as to those houses are based upon the usual time and credit given in regard to purchasers, one-third cash and one-third every 2 years, if you desire; I gather this from the conversation which I heard betw. you gentlemen; if you desire to know the value of property in regard to monthly payments you would natually want to get a higher price on time payments; at this time they would be very good prices.

Q. Mr. Duncanson, when property is sold on payments, either long or short, where the security is sufficient and the deferred payments bear six per cent. interest, does it make any difference as to the value of property whether the payments are long or short?

A. Considerable. Neither you nor I would sell a house on as low rate at ⅓ cash as if we could get all cash for it.

Q. Don't they sell in the market at about the same rate?

A. No, sir; the prices are added to; in other words, the man is paying interest and rent; is paying his notes.

893 Q. I suppose that money at six per cent. was a good investment?

A. Yes, but you get it back in such a way that there is no investment in it.

Mr. FRANK H. SMITH sworn and called by Mr. EDWARDS:

Q. State your occupation, Mr. Smith.

A. I am a real-estate agent.

Q. How long have you been in that business in this city?

A. Eight years.

Q. Are you acquainted with the value of real estate in the various sections of this city?

A. Yes, sir.

Q. You have made sales and had real-estate transaction- in general throughout the city, have you?

A. Yes.

Q. From your knowledge of the value of real estate in square 177 and its vicinity are you able to testify in relation to the value of the ground in this square in 1879 and '80?

A. Approximately.

Q. What, in your judgment, was the value of the 16th-St. front, not included in corner of 16th & S, of the property involved in this suit in 1879 and '80 per square foot as then subdivided and being improved?

A. I should say from 40 to 45 cents.

894 Q. What would the building on each of those lots be worth during that period if completed in the style and manner that they now are or as they were contemplated to be built in 1879 and '80, not including the corner?

A. I think about $2,000.00.

Q. What was the corner lot, 16th & S street-, worth per square foot at that time, in your judgment?

A. About 80 to 90 cents.

Q. What was the value of the ground covered by the S-street houses at that time per square foot?

A. About 25 cents a foot.

Q. And each house if then completed as they now stand?

A. About 1,800 to 1,900 dolls.

Q. What was the value of the Swan-street lots per square foot during this time?

A. I should say then ten or twelve cents.

Q. Are those Swan-street lots improved?

A. No.

Q. What are they worth now, in your opinion, p'r sq. foot?

A. From 40 to 45 cents.

Q. What is the ground covered by the eleven houses on 16th street worth p'r square foot, not including the corner?

A. You mean with the improvements on them?

Q. As they stand; yes, sir.

A. About 90 cents or a dollar.

Q. Give us the value of the corner lot now per sq. foot.

A. Well, from $1.30 to $1.40.

895 Q. What is the value, in your opinion, of the buildings on each of these 11 lots, not including the corner, at the present time?

A. It is about the same; possibly $100.00 a house more; some substantial improvements, I think, have been made.

By Gen'l HENKLE:

Q. About $2,100, Mr. Smith?

A. Yes, sir; I think so.

By Mr. EDWARDS:

Q. What is the present value of the ground covered by the S-street houses per square foot?

A. Well, I think that ground is worth 70 to 75 cents.

Q. And the buildings on each of the lots?

A. The buildings are about the same.

Q. As in 1879 to '80?

A. Yes, sir; the- have appreciated in value more rapidly than the 16th-street houses, because the lots are larger and the buildings are more appropriate to the neighborhood.

Q. What do you know about the improvements on the lot on the corner of 16th & S; are you familiar with them?

A. Yes.

Q. Have you been in the house?

A. Yes.

Q. You were engaged, were you not, in its construction?

A. Yes.

896 Q. State, as near as you can, Mr. Smith, about what that house cost to complete, if you know.

A. Well, I can only give a guess without referring to memoranda; say about $5,000.

Q. You were acquainted, were you not, in 1879 or '80, with the 6th-street house, known as the Howard house, involved in this suit and with its value at that time?

A. Yes, sir.

Q. What, in your judgment, was that house worth, including the lot, in 1879 and '80?

A. In the neighborhood of $4,000. I think it was rented at $25.00 a month at that time.

Q. What is it worth now, in your judgment?

A. I think in the neighborhood of $5,000.00.

Q. You also know, do you not, the two houses on Mass. Ave. and Second street, known as the Archer houses, and knew them in 1879 and '80?

A. Yes, sir.

Q. Give their value at that time, of the houses and lots.

A. The corner house was worth at that time $3,200 or $3,300, and the other about $2,200.

Q. What are they worth at the present time, in your judgment?

A. The corner house is worth a little more than that, because the party who purchased it has made considerable improvements; otherwise it would be about the same.

897 Q. Now give the value of the other at the present time.

A. About the same.

Q. Then, as I understand you, these two houses known as the Archer houses are about equal in value now to what they were in 1879 and '80?

A. Yes, sir; they have been held for sale for a long time for about the same price.

This closes the direct examination of this witness as to the value of the property under the order of reference. Cross-examination waived.

Adjourned until Monday, July 12th, at 2 p. m.

898 MONDAY, *July* 12, 1886—2 p. m.

Hearing pursuant to adjournment.

Present: Gen'l Henkle, for the complainant; Mr. Edwards, for the defendant.

WM. H. COVINGTON sworn and called by Mr. EDWARDS:

Q. What is your name and where do you reside?

A. Wm. H. Covington; 631 G street S. E.

Q. Do you know the house in controversy in this suit?

A. Yes, sir.

Q. What, if any-, had you to do with the construction of those houses; and, if so, by whom were you employed and how long were you at work upon the houses?

A. I think there were four houses on 16th St. and two, I know, on S street that I worked on.

Q. For whom?

A. For Wm. R. Hooper.

Q. How long?

A. I think I worked there about 4 months. It was in warm weather—probably June or July—that I began. It might have been May or June. I know that it was warm weather. This has been some time ago.

Q. You say you recollect working there about 4 months?

A. Yes, sir.

899 Q. I wish you to refresh your re-lection as to the time you went there, Mr. Covington, to work upon these houses and see if you are not mistaken as to going there in June.

A. Well, I might be. I say I could not tell unless I would get those bills that I presented to Mr. Hooper for my time.

Q. When you first went to work upon those houses state what was the condition of those fronting on 16th street. I am speaking now of twelve, commencing with the first one at the corner of 16th & S streets and running north.

A. I had nothing to do with those on 16th St., on the corner.

Q. You don't understand my question. I am asking about 12 houses, and I want to know what the condition of the 12 was.

A. Well, the corner house had the first-floor joists on, and the next had a little more done to it, and the next had a little more, and so on up to the house I commenced to work on, on which the roof was on, part of the stairs up, and some of the doors were hung. There was but little painting in that house done; was no stoves in there; was no bath-tub in; was no sewer in, and, indeed,

900 there was no steps to any of them—iron steps—and the back yard, areaways, back porches, and fencing in the yards—that had to be done when we started in. We painted the front—some balustrade on top. We painted that iron-work.

Q. Do you recollect how many of these houses on the 16th-street front were not under roof at that time?

A. I can't be positive about that. I think there was about five or six without any roofs on.

Q. You have described one that was under roof. Now state as to those that were not under roof, what their condition was as to finish.

A. I have just described them.

Q. That refers to those that were under roof?

A. Yes, sir; I described them up with no roofs; then I stated those I commenced to work on.

Q. How many did you work on?

A. Four.

Q. They were under roof?

A. Yes, sir; all I worked on were under roof.

Q. Do you recollect a man by the name of Hester occupying one at that time?

A. I heard there was such a man by that name.

Q. Did you work on that house where he was?

A. No, sir; I did not have anything to do with that house. I probably might have had a small job that would not amount to much—fixing a door or something like that.

901 Q. What was the condition of the S-street houses when you worked on them?

A. Well, the S-street houses were partly plastered; no floors in the basements; the partitions were up in the basement; there was no steps to either the front or back areas; the front porches were not up; the plastering was very bad; we had to take a good deal of it off and replaster it, and there was a good deal left on that ought to have been taken off. We were not allowed to do it by the owner. The plastering had been done in cold weather and was not protected and was very bad. The tin roofs to the four houses on S street we had to fix over, as they had suffered some damage from the wind. There was right smart expense to that; nearly half of the tin was off; something like $190 worth of tin-work done there on the houses on S street. Then we had to paint them all over. Joists and floors were laid and carriages up for the stairs.

Q. No trimmings on at all?

A. No, sir.

Q. Any bath-tubs or plumbing, ranges, gas, water, or sewer connections, paving of vaults, concreting in cellars, or anything of that kind?

A. No, sir.

Q. Any concreting in the cellars of the 16th-street houses?

902 A. No, sir.

Q. Any sewer connections?

A. No, sir.

Q. Water connections?

A. I am not certain about that. The water pipes were run into the house.

Q. You spoke of the plastering of the S-street houses being damaged by the cold weather. How long did that plastering appear to have been on when you first commenced to work?

A. Well, not very long.

Q. Was there any painting done by you to the front of the houses on 16th or S street at this time?

A. Yes, sir, both.

Q. What was the character of the work that had been done on those houses when you went there?

A. Poor.

Q. What was the class of material used in their construction?

A. Well, it was not poor and not the best; say tolerable.

Q. Tolerable class of material?

A. Yes, sir.

Q. What effect or economy in the purchase of material and in doing the work on those house was made by Mr. Hooper, if any?

903 A. Mr. Hooper directed me to go and get bids of two or three parties of the same class of work, and he selected the cheapest one, and charged me particularly to get work done as cheap as I could.

Q. You were in his employ?

A. Yes, sir.

Q. What as?

A. Well, as superintendent in buying material and hiring men and making contract with them.

Q. You had general charge of the work?

A. Yes, sir.

Q. Were the monies, if any, advanced by Mr. Hooper to you expended in the erection of those houses as he directed?

A. He didn't give me any; he paid all bills.

Q. Upon your approval?

A. After I approved them; yes, sir.

Q. Did you ever hear of any complaint being made that the bills were not paid?

A. Not while I was there.

Q. Have you ever since?

A. Not as far as Mr. Hooper is concerned; no, sir.

Cross-examination by Gen'l HENKLE:

Q. Mr. Covington, what is your business?

A. My business is a contractor and builder and market master and clerk all combined.

Q. Are you a carpenter by trade?

A. I am, sir. I served a regular apprenticeship.

904 Q. What number from the corner was the house that you began in—I mean from the corner of 16th & S?

A. That I can't say positively. I think it is house number 1810, but it is the fifth or sixth house from the corner of S St.

Q. That house had the roof on. Won't you tell us now what work was done? You have stated in answer to Mr. Edwards what work was not done. What work had been done on that house?

A. The floors were laid, plastered, some of the doors were hung. I do not think any of the inside shutters were hung—inside blinds—and no plumbing work, only the pipes in the cellar were hung to the joists; were carried up above; no bath-tubs or water-closets or anything of that kind.

Q. Were the gas pipes in?

A. The gas pipes were in, but no fixtures—no chandeliers.

Q. They were ready for the fixtures?

A. Yes, sir.

Q. And the water was all ready?

A. The water pipes; yes, sir. I don't know w-ether the connections were made or not; there was no sewer.

Q. You spoke of inside shutters. How many windows had inside shutters?

A. That house?

905 Q. Yes. Did the back windows have them or simply the front?

A. I am not certain of that. I think, though, that there were blinds on the outside. I am not speaking positively about that.

Q. You think that there were blinds on the outside in the rear of the building and the front had inside shutters?

A. Yes, sir.

Q. How many windows were there in the house—I mean front windows?

A. Ten. My impression is there is a two-story bow window in front; then little shutters on each side; then one over the front door.

Q. Now, Mr. Covington, was it not a three-story bow window?

A. Three-story. I have not been up there for a long while. There is more than ten windows.

Q. Now, Mr. Covington, were the inside shutters there ready to be put on?

A. Some of them were there.

Q. How many of them were there?

A. That I can't recollect now.

Q. Can you give us an idea of the proportion that were there?

A. No, sir; some of them were there.

Q. Can you say that — were not all there?

A. No, sir.

906 Q. Can't say that?

A. No, sir; the doors were not all there, either.

Q. Do you mean to say that they were not all there?

A. Yes, sir; they were not all there; had to buy some.

Q. Do you know how many you had to buy?

A. No, sir.

Q. Can you form an idea?

A. No, sir; not now.

Q. Do you know what was paid for them?

A. Not now.

Q. Were they pine?

A. White pine; yes, sir.

Q. Do you know what those things cost at that time?

A. No, sir.

Q. Have you no idea?

A. I have no idea. I know that they were very cheap; that is all I know.

Q. Did they cost as much as a dollar a window?

A. I could not tell now.

Q. Would they ever cost more than that?

A. Yes, sir.

Q. More than a dollar a window?

A. Yes, sir.

Q. How much more; two?

A. I could not say.

Q. Well, you are a builder, Mr. Covington; you can give us some idea.

A. I can't do that.

907 Q. Did they cost $5.00 a window?

A. I can't answer that.

Q. You can't give us any idea whether it was one dollar or ten?

A. Yes, sir; I can. I am putting up a large place down here now.

Q. I want to know whether you can tell what it cost to make these inside white-pine blinds that — put up in those window-.

A. No, sir; I can't tell.

Q. Nor have you any idea?

A. No, sir.

Q. Nor can you tell whether three windows or five windows were lacking, or how many?

A. No, sir; I can't tell you.

Q. Can you tell me how many doors were hung?

A. No, sir.

Q. Hav-n't any idea?

A. No, sir.

Q. Were there any doors that were not hung?

A. Yes, sir; some we had to buy.

Q. You are sure you had to buy some doors?

A. Yes, sir.

Q. What kind were they?

A. White pine.

Q. 1½ inches?

A. Yes, sir.

Q. What would those cost?

908 A. I could not tell you.

Q. You hav-n't any idea?

A. No, sir. I can tell you what the price can be now.

Q. What would they cost now?

A. $1.75.

Q. A door?

A. Yes, sir.

Q. Would they cost any more then?

A. Oh, no; a great deal less.

Q. Less than now.

A. Yes, sir.

Q. Did they cost more than a dollar apiece then?

A. Well, I can't say positively. I can't tell; the things were gotten very cheap.

Q. Well, they cost a good deal less than $1.75 a door?

A. Yes, sir.

Q. You don't know how many doors had to be supplied?

A. No, sir.

Q. Can you say more than three?

A. No, sir.

Q. Or two?

A. No, sir; I could not say; that this was a good while ago.

Q. Mr. Covington, now, how *is* about the back fences? Were they not up?

A. No, sir.

909 Q. Are you sure of that—the 16th-street houses? Now, think about that. Were not the back fences up of these houses you worked on?

A. Some of them might have been up; the S-street houses were not up—the back fences.

Q. I am speaking about the 16th-St. houses—the division fences. My information is that they were up. Now, I want you to think about it.

A. I am positive that we worked on the fences; the rear fences might have been up, but the division fences were not up.

Q. The rear fences might have been up?

A. Yes; but the party fences were not up.

Q. Now, Mr. Covington, my information is that the cross-fences were up. I want you to just think about it. I have no doubt about your disposition to tell the exact truth if you can recollect it. I want now your best recollection.

A. I am positive I worked on the fences.

Q. Can you say positively, Mr. Covington, from your recollection that these fences were not up?

A. Some of them were not up, because I know we passed from house to house from the back way.

Q. Can you say that most of the fencing was up?

A. I can say that most of it was not up.

Q. The 16th-St. houses, the most of the fencing was up; the back fencing was all up?

910 A. I would not say that, General. I put some of it up. I made gates in it. Since I come to recollect, I made gates to those back fences.

Q. Wasn't that the work you did?

A. The back fences might have been up.

Q. And you made gates—that was it?

A. Some of the division fences, I know, was not up.

Q. Can you give us any idea as to what proportion of the division fences were not up?

A. No, sir; I could not.

Q. Wasn't the majority of them up—wasn't most of them up?

A. For the whole row?

Q. Just the four you worked on I am asking about now.

A. Well, I could not say, General, about that.

Q. You could not say it was not so?

A. I could not say it was not so; no, sir.

Q. Well, now, what was there except putting in the gas fixtures? You say, I believe, that there were no stoves up?

A. No, sir; there were no mantels, and we had to put in the mantels before the stoves.

Q. What kind of stoves—latrobes?

A. Latrobes; yes, sir.

Q. How many were there in the house?

A. I don't recollect.

911 Q. More than one?

A. I think two, one in the parlor and one in the room back.

Q. House all ready for the latrobes?

A. Yes.

Q. Fireplaces built, all ready to set latrobes, stove, register, and all those things?

A. There was not registers; just merely hole to put the stove in; had wooden mantels upstairs or shelves.

Q. What kind of wooden mantels did you have upstairs in these houses? Were they complete mantels or simply shelves?

A. I think now that in the front room over the parlor the mantel is built with jambs to it; in the room back of that just simply a shelf, and in the room over the kitchen a little shelf.

Q. You put shelves upstairs on the second and third floors in all the rooms except the second-story front room?

A. Yes, sir; I think the third floor had just shelves.

Q. And the back room of the second floor?

A. I think so; I am not certain about that; they may have mantels in the third-story front room.

912 Q. Well, now, the only mantels that were lacking were the ones in the second floor over the parlor and the parlor?

A. Yes, sir; and the parlor one, if I am not mistaken, was a slate one that I put there; where the latrobe was I think there was a mantel.

Q. What kind of mantel was that?

A. Slate.

Q. Two slate mantels?

A. I judge it was slate. I did put in wooden mantels, with latrobes too.

Q. Now, Mr. Covington, were not some of those shelves that were used for mantels there in the house ready to be put up?

A. I don't think there was any there.

Q. Can you give us any idea of what those things cost?

A. No, sir; I could not tell you.

Q. Can you give us some approximation?

A. No, sir; I could not without the receipts that I had.

Mr. Edwards objects to this line of cross-examination and it is abandoned by Gen'l Henkle.

Q. Now, Mr. Covington, this house we have been speaking of, omitting the corner house, it would be the fourth house; including the corner, it would be the fifth house?

A. I told you it was the fifth or sixth house; I could not tell exactly.

Q. I understood you to say that it was the fifth or sixth?

913 A. Yes, sir.

Q. Now, how as to the next house?

A. Pretty much the same thing. It wanted the stoves and fixtures, some moulding, and front doors.

Q. Well, you say this next house was in about the same state of advancement as the one of which you have been speaking, lacking about the same things that this house did?

A. Yes, sir.

Q. Did not lack any more or any less?

A. Well, probably a door or two, a little more moulding or something like that.

Q. In condition a little further advanced?

A. Well, probably it was. Not much difference, though.

Q. Now, the next one; you worked on four of these?

A. All four were in about the same condition.

Q. Now, how many houses were there in that row beyond?

A. Hold on, General; in some of the houses there was more stairways to be put up—that is, railing and banisters in each of them. I think two of those houses had no railing or banisters up—all the way up.

Q. I beg your pardon, Mr. Covington, I don't quite remember whether you stated the stairs, railing, was up in this house or not, was it?

914 A. In that house—I am not sure. I know that in one or two of them the rail was up and the banisters up, but in the others I don't think the rail was up.

Q. The rail was not up?

A. It was ready to be put up.

Q. And two, you think, were up, and two not up?

A. They were not up, but they were there all ready to be put up; maybe there might be a little piece of rail that did not amount to much, though.

Q. Well, you mean that it was all gotten out ready to be put up?

A. Yes, sir; not much of a job to put it up. They were the plainest kind of stairs.

Q. Now, Mr. Covington, about the houses beyond that: How many houses were there in this row—Mr. Balloch's row—beyond the last house, that you worked on?

By Mr. EDWARDS:

Q. Were the four that you worked on side by side?

A. Yes, sir; they ran all together.

By Gen'l HENKLE:

Q. Now, the house that Hester lived in—you know something about all the other houses except the one that Hester lived in—was that the only one that was occupied in that row?

915 A. There was another occupied in that row by—Pettit & Dripps owned it—Smith. The house that Hester was in and Pettit & Dripps' were the only houses in that row occupied.

Q. I want the houses that Mr. Hooper owned. Do you know them—the houses that had not been sold?

A. I don't know who owned them.

Q. Well, what was the condition of those unoccupied houses belonging to the row beyond where you worked on, do you know?

A. Well, they were not finished; there was work to be done, but I had nothing to do with them.

Q. Did you go through them to see what they lacked?

A. Well, they were pretty well finished.

Q. Were they not practically finished?

A. Oh, no; there was painting to be done, stoves to be put in, and little things to do to the houses to make them complete.

Q. Well, now, about the S-street houses: How many of them did you work on?

A. Two, and put the roofs on them and painted the roofs.

Q. There were 6 houses in that S-street row?

A. I think it was 6.

Q. At which end did you begin?

A. On the house at the corner of the alley; the east end. I fixed the tin of all 6 of them and painted the roofs.

Q. What did those houses lack? The roofs, I understand you, the wind had blown up so you had to repair them.

916 A. Yes, sir.

Q. Was that so as to all of them?

A. Yes, sir; I think it damaged all of them; all six of them. I put a coat of paint on all six.

Q. You painted the roofs?

A. Yes, sir.

Q. Had they ever been painted?

A. I don't think so.

Q. When you say you repaired the tin, wasn't the tin all there?

A. I had to buy a lot of new tin.

Q. Do you know how much there was of that?

A. I am not certain; I think about $150.00 or $190.00 was paid for that job, put spouting down. There was a good deal of tinning to do there.

Q. That estimate did not include the painting for the whole six?

A. Yes, sir.

Q. Did that include the work as well as the material?

A. That included the work and material, and I think the tinner I employed done the painting. The tinners generally do the painting.

Q. That was the amount also, the painting?

A. Yes, sir; that covers it all. I am not certain about that amount; it was $150.00 or $190.00, I am not sure which.

Q. The $150.00 or $190.00 covered the spouting, the painting material, and labor for those roofs?

917 A. Yes, sir.

Q. Do you know, as a matter of fact, that those roofs had been blown off?

A. Yes, sir.

Q. Do you know when the roofs were put on?

A. When I was working there.

Q. Do you know whether they had been put on before or not?

A. Yes, sir.

Q. You think they had been put on & blown off?

A. I do, certainly. You would not plaster a house before the roofs were on.

Q. Now, was the plumbing done on the S-street houses?

A. No, sir; none.

Q. No water pipes in?

A. No, sir.

Q. Are you sure of that?

A. Yes, sir.
Q. Wasn't the plumbing done in the houses?
A. No, sir.
Q. You are sure of that?
A. I am positive of that. Do you want me to tell you why?
Q. Yes. I want to know the fact. Mr. Perry says it was.
A. I say it was not. I remember distinctly I would not plaster the pipe. I b-ought the pipe up from the kitchen to the room
918 back of the parlor, and a great many men put their pipe in the wall and the plaster over it, but in that way you can't detect a leak until a great deal of damage is done. I put boxing around it; I remember that distinctly. You understand what I mean? I had that boxing show rather than have the pipes hid.
Q. Well, the pipe must have been there or you would not have put the box around it?
A. I say a great many men put the pipe in the wall.
Q. But that don't enable you to remember that you put in the pipe?
A. Yes, sir; I remember that I put in the pipe.
Q. Mr. Terry says the plumbing was done—two of them might have had it done or four might have had it done.
A. I say that these two did not have it done, as there was no sewer in the street.
Q. The rest of them may have been done except the two you worked in?
A. Yes, sir.
Q. Which two are those?
A. The houses next to that alley. In those houses just the flooring was laid; no floors laid in the basement or the concreting done.
Q. Was the studding up?
A. Yes, sir; didn't I tell you it was plastered?
Q. It was all plastered?

919 By the AUDITOR: Can't you get him to say just what was done in these two houses?

The WITNESS: In the basement I put the flooring down and put up all the partition and doors and sash and windows; all those things in the basement, going up to the next floor.

By Mr. EDWARDS:

Q. Was there any plumbing in there?
A. There was nothing.
Q. Any sewer connection?
A. Yes, sir; I put it in.

By Gen'l HENKLE:

Q. Let us finish with the basement; what were the partitions that you put into the basement?
A. I just put a partition across to separate the two rooms and then the partition for the hall.

Q. What were the partitions made out of?
A. Studding.
Q. Plastered?
A. Yes, sir; I plastered them.
Q. That was studding running one way and then crossways?
A. Yes, sir. Then I plastered walls. Then when I got upstairs I pulled part of the plaster off. It all ought to have
920 come off, but he would not let me do it because it would cost too much.
Q. The plastering was all on and the white coat and you repaired it?
A. Yes, sir.
Q. How as to the floor above? How many floors had that house?
A. Two stories and basement.
Q. How about the stories above?
A. The plastering was in the same condition.
Q. You patched it?
A. Yes, sir.
Q. Were the mantels in those houses?
A. No, sir.
Q. What kind of mantels did you put in?
A. I put in wooden mantels in the basement, latrobe stove in that; upstairs there was slate mantels in the front and back parlor; in the second story I put in shelves, I think.

Redirect by Mr. EDWARDS:

Q. Did you go into the four westerly houses of these six *on* S St. houses while you were at work there?
A. Yes, sir.
Q. Is there anything in your mind that enables you — state whether they were any further advanced towards completion in point of fact than the two houses that you worked on?
921 A. They were not as far advanced. They had not as much work done on them.
Q. At the suggestion of the auditor you undertook to take the houses from the basement, these houses you work- in, to particularize what you did, and you have stated a number of things. Where was the range placed, in the basement?
A. In the basement.
Q. Was there any range in?
A. No, sir.
Q. Was there any attachments?
A. No, sir.
Q. Gas fixtures?
A. No, sir.

By the AUDITOR: I wanted him to tell us just what was in the house when he went there.

By Mr. EDWARDS:

Q. I do not recollect (owing to the length of the cross-examina-

tion) whether you stated anything about stairs in the S-street houses that you work- on. Were the stairs up?

A. No, sir—yes; I said the carriages were there and the rough board. There were no area steps fron- or back. I put up back porch, and I think built a wall there.

By Gen'l HENKLE: You stated all that.

922 By Gen'l HENKLE:

Q. You say that you painted the trim-ing on these houses?

A. Yes, sir; I painted the brick.

Q. You say that was black mortar (to Mr. Terry)? You did not paint the —, Mr. Covington?

A. I painted the wood-work, I guess.

Adjourned, subject to notice.

923 In the Supreme Court of Dist. of Columbia.

BALLOCH
v.
HOOPER.

MONDAY, *Nov.* 1*st*, 1886—2 o'clock p. m.

Hearing pursuant to notice.

Present: Mr. Moulton, for the complainant; Mr. Edwards, for the defendant-, and Mr. Terry appears in person.

Mr. FRANCIS H. SMITH called, sworn, and examined by EDWARDS:

Q. What connection, if any, Mr. Smith, had you in the matter of the improvement or construction of the unfinished houses on 16th & S Sts., involved in this suit, and when did you first have anything to do with it?

A. *Mr.* firm, F. H. Smith & Son, were employed by the Mass. Mutual Life Insurance Company at the request of Mr. Hooper to complete these unfinished houses in the latter part of the summer or early in the fall of 1881, if I remember. I made a verbal arrangement with the Mass. Mutual Life Insurance Company to complete these houses at their expense, and under that agreement went on and did complete them.

Q. From whom did you obtain the money for this purpose?

A. From the insurance company.

Q. How was it forwarded to you?

A. It was paid from time to time on drafts drawn by us as the work progressed.

924 Q. Did you keep an account of your receipts and disbursements in this matter?

A. We did.

Q. What, if anything, did you do after you took hold of this matter concerning the collection of rents and disbursements for repairs and taxes?

A. We collected the rents and made payments for repairs and taxes.

Q. Then, as I understand, you had full charge of the property for the purposes of completing the houses, their rental and care and management?

A. Yes.

Q. How long was that continued?

A. The houses were completed, I should say, about the middle of the summer of 1882. We still have charge of them and have had since that time.

Q. Then your firm kept the account of your transaction, showing your receipts and disbursements on account of these improvements, and so on?

A. Yes.

Q. Did you from time to time furnish statement to the company concerning the improvement, revenues, and disbursements of this property?

A. We did. After a certain time—I cannot give you now the date—Mr. Hooper resumed the control; since that time our statement- have been made to him.

925 Q. I have here certain statements with receipts and bills attached to each. Look at them and state what they relate to, who made them, and to whom rendered—18 statements I hand you.

A. These statements were made by us from time to time to the insurance company as the work progressed. The vouchers accompanying each were forwarded to the company at the time the statement was rendered. I have not seen the individual vouchers from that time to this, but I presume they are the vouchers we sent.

Q. Who made up these statements, Mr. Smith?

A. They were made up by my son, Frank B. Smith, who was a member of the firm at that time and who keeps the books.

Q. What do they relate to?

A. They relate to the care and completion of the houses.

Q. State whether or not they include revenues from rentals.

A. They include all the revenues received from whatever source and all payments made on whatever account for the company.

Q. What agreement, if any, was made with you—your firm—concerning your compensation?

A. We were to receive 5% for the collection of rents and 10% for superintendence of the work and disbursement of the money.

926 Q. What efforts, if any, to economise were exercised by your firm in the matter of the improvements, care, and preservation of this property?

A. We made every effort in our power by competition and otherwise on bids to obtain the material at the lowest practicable rate and to bring the labor account to the lowest practicable amount.

Q. Who acted as financial agent or disbursed the monies that were sent to you for this purpose?

A. My son, mainly, for the firm; perhaps I may say altogether.

Q. He was the same one, I understand, who kept the books?

A. Ye-.

Q. He was charged with that duty during the period that these improvements were being made by your firm or since you have had the care and management of this property. Has either Mr. Balloch or Mr. Terry, who is here now present, been on the premises, to your knowledge, or have they or either of them ever communicated with you in any manner concerning the matter of these improvements, the manner of the work, or said or did anything about the property?

A. Not to my knowledge.

927 Q. During those periods did you see either Mr. Balloch or Terry in the city or were they in the city from time to time, to your knowledge?

A. I met them frequently on the street; sometimes, as far as Mr. Terry is concerned, in my office on other business.

Q. Have you any recollection of Mr. Terry's being absent from the city for any length of time while this work was going on? Do you know whether or not he was?

A. I do not know of his being absent from the city. There was a certain period of several months that — did not meet him on the street.

Q. At the time this arrangement was made betw. Mr. Hooper anthe insurance company and yourself concerning the improvement of this property—that is, the advance of the money by the company for that purpose—what was the condition of the real-estate market in the vicinity of this property?

A. There were very few sales. There was no activity in the real-estate market.

Q. Have you cause-, Mr. Smith, to be kept on your accounts *of* the rents and collection from sales and disbursements for repairs, taxes, and loan on account of this property since the last statement, No. 18, which *which* we have just been speaking about? If so, look at the statement I now hand — and state whether that is it and up to what time it includes.

928 A. We have cause- such a transcript to be made from our books, which I hold in my hand, and it is brought down to the 4th of Sept. of this year.

Q. By whom was it made?

A. It was made by a clerk in our office and verified by my son.

Q. What does that include?

A. This includes all monies received by us for rental or directly from the company down to the period when Mr. Hooper resumed the care of the buildings, and from that time it includes the rental receipts and also various items of other personal account with Mr. Hooper. We only had one account of Mr. Hooper. We did not know where the money went to after Mr. Hooper resumed care of the houses; we kept a personal account with him, which his transcript shows, both for rentals and other personal items not connected with the houses.

Q. You have mentioned rentals. You have evidently omitted the matter of collections from sales, have you not, in this statement?

A. I guess my statement was that it contained the account of receipts from rentals and sales to the company since that time.

Q. After you first took hold of the property what was the condition of the work that had been done the houses? And state whether or not there was any necessity for the removal of any portion of the work that had been done and substitution of new, giving a general statement of its condition.

929 A. Some of the houses had been nominally completed and were occupied, I think. None of them were complete when they were first occupied. The tenants themselves had done a certain amount of work towards completion in consideration of rent—that is, they were occupied at a very low rate of rental. We did a large amount of work in them, justifying our charging a higher rate of rental for the other house. Some of the houses were up, I think; others only the foundations were laid. The work had been a long time exposed to the winter. The walls were very much disintegrated and damaged; the timbers were so much warped and damaged that they had to be taken out, and in my judgment it would have been a easier course to have taken them down and commenced from the foundation again. I think the houses would have been built probably at less cost than the money actually expended on them.

Q. The order of reference requiring the auditor to report a statement on the subject of the sale of the houses, giving the time of such sale, the price for which the property was sold, person to whom sold, and the amount of purchase-money, and so on, as appeared in the 10th paragraph—state whether your firm has prepared

930 a statement concerning this inquiry; and, if so, produce it and tell whether it is correct.

A. We have prepared such a statement, which has been provided from our books by my son, who made and endorsed it; he is competent to testify that it is correct. I believe it to be correct.

Q. Are you able from your recollection to described or give the number of the houses that remain unsold?

A. There was 10 houses on 16th St. The numbers ran from 1804 to 1822, inclusive of both even numbers.

Cross-examination.

By Mr. MOULTON:

Q. As I gather from your statements the accounts filed or offered by Mr. Edwards were not prepared or made by you?

A. Not by me personally.

Q. I understand from your statement, also, that the money involved in the completion of these houses was not disbursed by you personally?

A. No.

Q. That the accounts of rents arising from the houses were not kept by you?

A. No.

Q. Indeed that none of the accounts of them were kept or made by yourself?

A. No; the junior partner of our firm kept the books and nobody ever writes in them but himself.

931 Q. In matter of completion of these houses, you say at the beginning the walls or their condition was such that, in your judgement, they could have been completed better by their entire removal?

A. Yes.

Q. Is that your judgment of it now?

A. Yes.

Q. That relates to the unoccupied houses?

—. ——.

Q. How were the contracts for the completion of these house-made?

A. In part by contract and very largely by day work.

Q. Did you testify a few moments ago that for the purpose of economising the work at the lowest possible cost that the work was done by contracts that were made by competitive bidding?

A. Yes; so far as the contracts were made.

Q. You did make that statement?

A. Yes.

Q. In case of making these contracts by competitive bidding were all builders to compete in the bidding?

A. No part was given, as I recollect, but builders were bidding for the entire work, or plan was to contract separately for each class of work.

Q. How many bids did you take in relation to each class of work?

A. I cannot answer your question accurately or even approximately at this distance of time.

932 Q. What carpenter did the carpenter's work in the completion of these houses?

A. A large portion of it was done under the superintendence of J. H. Gibbons.

Q. You mean that Mr. Gibbons contracted to do it?

A. I won't be sure; no; Mr. Gibbons did not contract to do all the work. At first there was a contract made with Mr. Gibbons to do it; no; I don't think it was Mr. Gibbons. There was a contract made to do a certain portion of the carpenter's work. I remember distinctly in regard to the painting we made a contract with a party to do all the painting. It proved afterwards he bid a good deal lower than he could do his work for. He was doing what he did do so badly that we released him and furnished the material ourselves and employed painters by the day.

Q. Mr. Smith, if Mr. Gibbons did not have the contract for doing the carpenter's work, who did?

A. The larger portion of the carpenter's work was finally done by the day, and Mr. Gibbons was employed to superintend.

Q. What part, if any, of the carpenter's work was done by contract?

A. I cannot answer that question now. I have not thought of it for years.

Q. Was the brick-work done by contract, or how?

933 A. I can refresh my memory and give you all the items, or my son will do it when he come- upon the stand.

Q. Do you not know or remember whether the brick-work was done by contract or not?

A. No; I cannot tell you at this moment.

Q. If you do not know whether the carpenter's work or the brick-work was done by contract how do you know or how are you able to testify that, for the purpose of economy, competitive bids were accepted in the completion of these houses?

A. I remember this very distinctly, that at the beginning, as after a good deal of consultation as to what would be best plan for the construction of the buildings, that was the arrangement determined upon. After that I was away from the city a good deal during the several month- following, and my recollection is, generally, that it is. I returned, from time to time, and looked over the matter. It finally came down to the understanding that we could do the work better and probably cheaper by doing most of it by the day's work and employing our own men.

Q. Do you know a man by the name of E. J. Sweet?

A. I know him.

934 Q. Did he have anything to do with the completion of these houses; and, if so, what?

A. Mr. Sweet occupied a desk or office-room in our office, and during the period when I was absent from the city a large portion of the time I requested Mr. Sweet to assist my son with such experience and help as he could give, and I think he did.

Q. I understand you, Mr. Smith, that during the greater portion of the time covered by him in the completion of these houses you were absent from the city. Am I correct in that?

A. Yes.

Q. And that during that time, by mutual arrangement of yourself and Mr. Sweet, Mr. Sweet was to arrange with your son in the disbursement of this fund and the completion of these houses?

A. Not just that.

Q. What was it?

A. He was to assist my son by his advice and co-operation as my son should request.

Q. Is it not true in fact that Mr. Sweet not only advised your son in the matter of the completion of these houses, but also disbursed some portion of this fund?

A. I do not understand that, so far as I have any knowledge or information, that Mr. Sweet disbursed any portion of this money. He did assist, by his advice and co-operation, in the details

935 of the work.

Q Were you conscious of the fact, if it is a fact, that Mr. Sweet paid the men off on the work as it progressed?

A. I am conscious of the fact that on Saturday night the foremen of the various branches of the work brought to the office pay-rolls

of the men, and I cannot say that Mr. Sweet did not or whether he did or if on some occasions he took the pay-roll back and returned it with the signatures of the men. I know that my son visited the work every day or every day of two and was able to verify the pay-rolls and the accounts from his own personal knowledge.

Q. How is it possible for you to know that if you were not in the city?

A. I was in the city more or less every week, but away during the major portion of the week.

Q. Who is the foreman to whom you allude?

A. I said foremen of the various classes of work.

Q. Was the plastering completed by contract awarded under competitive bids?

A. I cannot answer that question from recollection at this time.

Q. Then this matter of competitive bidding is something that you have no personal knowledge of?

936 A. I have. Question me to what extent my knowledge goes.

Q. You know a man by the name of Pumfrey, carpenter and builder?

A. I do not remember him now.

Q. Remember a man by the name of Geo. Thompson?

A. I do not think at this moment I could recollect the names of a single man, mechanic, employed on these building except Gibbons.

Q. Do you know a man by the name of Covington, the market master of the Northern Liberty market?

A. I said before I do not think I could remember the name of a single man employed on those buildings.

Q. In the matter of the lease of the houses, they were made, I believe, largely under your personal supervision, were they not?

A. All of them, as far as that is concerned. The houses, as I recollect, were sold upon time with cash payments and deferred notes for the balance. The corner house was sold for cash; otherwise the houses were sold, with deferred payments, on time.

Q. What was your habit in the matter of cash received? Was it immediately transmitted to the company or retained in your hands?

937 A. I think, as a rule—I won't be sure about that—the habit was to transmit immediately; usually at the end of the month.

Q. This statement that you furnished here—does that cover or contain monthly statements to the company of sales and rents?

A. That statement is a transcript of the books and contains the receipts as they came to the office.

Q. This statement, as I glance at it, seems to cover a running account.

A. Yes; at any period at which money was transmitted to the company.

Q. Was that the case in the matter of rents also; that they were sent monthly?

A. That was true absolutely in regard to rents; I won't say absolutely in respect to sales; I do not remember at this moment.

Q. Does this statement that I hold in my hands contain the cash received for the sale of the corner house?

A. If that is the statement of the sales it does.

Q. I see by this statement that I hold in my hands, which you have brought here as containing a statement of the sales of the property, that the sale of the corner house was made to one J. J. Reynolds on May 11th, 1882. Have you any account here that will disclose the time when that money was transmitted to the company?

938 A. A large portion of that money was distributed here in the payment of taxes upon the property and mortgages on the property.

Q. Then the cash derived from some of these sales, at least, was not transmitted to the company?

A. Except in that way; money used for that purpose.

Q. Is it or is it not true that this cash for this corner sold to General Reynolds, amounting to the sum of $7,000, remained in your hands for about 18 months after the sale?

A. A large portion of the amount remained in our hands for some time—considerable time—I cannot tell you the number of months—for the purpose of paying indebtedness against the property, and a considerable item over and above that also remained in our hands, with the consent of the company, until all the settlements were made, and we paid them interest on that amount.

Q. Is it or is it not true, Mr. Smith, that the firm of Smith & Son retained this fund of $7,500 for nearly 18 months, and have you not paid for the use of it, as interest, the sum of $238.40?

A. If the statement that you hold is that, as you are reading from the statement, it is true, the sum with interest you mention for the amount not applied for the payment of the indebtedness.

939 Q. And is it not also true that this fund of $7,500 was not taken up on the accounts of the company until the 24th of October, 1884?

A. I do not know anything about that. I know that the company were aware of precisely the condition of the account from the start and that the settlement was made accurately, given the company interest on any amount retained by us. It was used for the purpose of paying indebtedness against the property.

Q. Do you remember when you made a report to the company on the Reynolds sale?

A. That was reported — the company when the sale was made. The deed went to the company and was approved by the company at the time.

Mr. Edwards, solicitor for the defendant-, calls the attention of the auditor and counsel to the deposition of M. V. B. Edgerly upon commission and produced in this cause on the 30th of October, 1886, together with the Exhibits A and B accompanying the same.

Further hearing adjourned to Wednesday, Nov. 3d, 1886, at 2 o'clock p. m.

940 WEDNESDAY, *November 3d*, 1886—2 o'clock p. m.

Present: Mr. Moulton and Gen. Henkle, for the complainant; Mr. Edwards, for the defendant-; Mr. Terry is also present.

Mr. FRANK B. SMITH called, sworn, and examined by Mr. EDWARDS:

Q. State your name and occupation, Mr. Smith.

A. Frank B. Smith; real-estate broker.

Q. Are you in any way connected with the firm of Frank H. Smith & Son?

A. I am the junior partner of that firm.

Q. How long have you been a partner of it?

A. Since December 1st, 1880.

Q. Are you familiar with the premises involved in this litigation, located on S and 16th streets N. W.?

A. I am.

Q. What connection, if any, did the firm of which you are a member have with that property in the matter of its improvement, rental, and care, and how and when did the firm first take hold of the property for these purposes? First as to the connection the firm had.

A. The houses were turned over to us in an unfinished condition for completion and sale or rental late in the fall or early in the winter of '81, I guess it was.

941 Q. During the progress of the improvements, after they were turned over to your firm, did you visit the premises?

A. I did, frequently.

Q. For what purpose?

A. For the purpose of inspecting the work in progress.

Q. Who kept the books of your firm?

A. I did.

Q. Who attended to the finances?

A. I did.

Q. Who received and paid out the money on account of these improvements?

A. I did.

Q. Who received or collected the rents?

A. I did; I or clerks in our employ.

Q. Who paid out the moneys for the repairs and taxes?

A. I did, individually.

Q. I call your attention to 18 statements referred to in the testimony of your father at the last session. Look at them and tell me who made them out.

A. They seem to be in my handwriting. They were made out by me.

Q. From what were they made out?

A. They are transcripts of the books of our firm at that period.

Q. State whether you have examined these and the papers attached to them since you have been here. If not all of them, please do so and then say what you know about the disbursements of the money represented by those receipts and vouchers.

942 A. They are the accounts of transcripts from our books sent to the company and the vouchers accompanying same and represent disbursements made for the completion of the houses.

Q. Please state whether or not they include (these disbursements as shown by these papers) other payments, such as taxes and any indebtedness due, and so on, and the like.

A. They do.

Q. State whether or not they are the correct statements of transactions concerning this property for the period involved.

A. They are.

Q. Where was the money paid for these items mentioned in these statements?

A. Partly on the ground, but principally in our office on 7th street. The only payments made on the ground were wages paid for certain day-work.

Q. Examine these statements or receipts and state whether you are able to say whether or not the persons purporting to have received money for this work did actually work on this property and did the work mentioned.

A. They did, to the best of my knowledge and belief. In some instances I inspected the work personally and in some I had it done by others in my office.

Q. Can you give the names of the parties or any of the parties who did painting on the property?

A. There was one painter I remember named Ogle. There was another named Cook that I could recollect.

Q. Remember who did the bell-hanging?

A. Galloway, I think.

943 Q. Remember Mr. Kuehling?

A. Yes.

Q. Who were the bricklayers employed?

A. I do not remember the names.

Q. Remember the names of the parties who did the plumbing?

A. The plumbing was principally done by John Mitchell.

Q. Who did the plastering?

A. That was done by a man named Dupont.

Q. Do you remember a man by the name of Lynch working there on the plastering?

A. I remember that Lynch was employed there. I do not remember that he did the plastering.

Q. How was the carpentering work done; and, if any one superintended it, who was it?

A. The carpentering work was done principally by day's work, under the supervision of James H. Gibbons, as foreman.

Q. Certain of those receipts there appear to be signed by a man named Thompson. Do you recollect his working on the houses?

A. I do not recollect; I could probably refresh my memory.

Q. Part of these receipts, Mr. Smith, for money paid out appear to be witnessed by you. Are you the witness Frank B. Smith?

A. I am. It was done, as I recollect, in the case of parties who

did not write their names. Where I had personal cognisance that the work was done there usually appear no check-marks; where I sent another to examine the work his endorsement usually appears, which I usually afterwards verified myself.

944 Q. In the matter of these improvements did you have any assistance from one Edwin J. Sweet?

A. We did; yes.

Q. State what he did in the matter.

A. He was employed to assist in hunting up the various mechanics and in some instances in examining the work for us.

Q. Was he employed by you under a fixed compensation—Mr. Sweet—or was he paid by your firm from time to time for his services?

A. He was paid by our firm from time to time for his services. He was employed at the same time in other capacities.

Q. Out of what moneys was that paid—out of the moneys that had been charged to the company or paid out of the monies received from the company by your firm or out of the monies paid by you under a contract with the company for his services?

A. His services are not charged to the company; his services were charged as our employee.

Q. Then, as I understand you, *that* your firm paid Mr. Sweet personally?

A. We did; yes, sir.

Q. And your firm was paid by the company?

A. We were; yes, sir.

Q. There are no items of moneys paid to Mr. Sweet for his services in these items, are there?

A. None whatever.

Q. These items run up to about June, '82, at which time it appears the work was about completed. Your firm, I under-

945 stand, collected rents, made sales, and collected monies from sales?

A. Yes, sir.

Q. Did you keep a statement of that in your books?

A. I did; yes, sir.

Q. Has a transcript been made of the account?

A. I have not seen the transcript.

Mr. EDWARDS: I now offer in evidence the 18 statements and accounts and the vouchers thereto annexed referred to and identified by this witness, that the counsel may examine the original books of entries from which these statements were made, if desired, this offer being merely for convenience.

Objected to.

The counsel for the defendant- thereupon offers in evidence the original receipts attached to the statements and mentioned and referred to in the testimony of the witness as representing monies paid out by him.

Gen'l HENKLE: I object that a multitude of receipts or papers

purporting to be receipts attached to statements are not evidence when offered in evidence in bulk.

Mr. EDWARDS: They are not offered in bulk; they are offered separately and individually.

Gen'l HENKLE: And also that they are not competent evidence.

946 The auditor overrules the objection, with leave to the counsel for the complainant to object hereafter to either of the said receipts for matter of form or for any other reason appearing on the face of the receipt.

Q. How was the money received from the defendant company?

A. In drafts on New York drawn to our order.

Q. How much money was thus received from the defendant company on account of the improvement of these houses and for the payment of taxes, incumbrances, and other matters connected with your management, as you have stated?

A. I could only tell exactly by refreshing my memory.

Q. Examine the statements before you and see whether you are able to state by refreshing your memory thereby.

Gen. HENKLE: I object to that because you have not laid the foundation.

Mr. Edwards withdraws the question.

Q. Are you able to state from your books or the statements sent to the company the receipts by your firm from the rental of this property and from the sales of any portion of the property during the period covered by these 18 statements?

A. I am; yes, sir.

Q. You have stated that these statements to which these receipts and vouchers are attached include all collections on account of these houses for rents and from sales to a certain extent for the time covered by these statements. Do these items of rent stated

947 therein as received by your firm include all of the rent received from the premises during that period?

A. They do.

Mr. EDWARDS: I now offer in evidence these statements for the purpose of showing the rent received by the defendant company, through the firm of F. H. Smith & Son, from these houses during the period covered by these statements.

Q. Please examine these statements and state if they include any collections by your firm on account of the sales of any of this property or any other revenues therefrom during the period covered by these statements.

A. I find no sales in these statements.

Q. Now, look at the statement I now hand you and tell me what you know about it, who made it and what it contains.

A. It was made by myself and was compiled from the books of our firm; it is a statement of the time of sale, price, name of purchaser, amount of cash paid at the time of sale, and amount since

paid, and amount now due, and how secured, and the description of the houses that have been sold and description of the houses unsold.

Q. Are you able to state whether it is a correct account of those matters that you have spoken of?

A. That is a correct copy.

Q. There are certain memoranda on the margin in red ink, Mr. Smith. State how that happened to be made.

A. This statement was made to cover to April 6th, 1886, which was afterwards brought down by red ink on the margin to September 10th, 1886; the red-ink marginal notes were made for the purpose of showing the changes since.

948 Mr. EDWARDS: Now, I offer these statements in evidence as bills the witness made, and it is correct F. H. S. & Son; No. 1 to 18, inclusive, has been offered; this will be F. H. S. & Son No. 19. The 18 statements, with the vouchers attached that we have been speaking about and given in evidence, are brought down to the first part of June or inclusive of the month of June, 1882, as it appears by the last statement.

Q. Please state whether you have taken a transcript from the books of your firm showing your receipts and disbursements on account of this property since that time.

A. I have.

Q. Look at the statement I now hand you and state whether you identify it; and, if so, state by whom it was made.

A. I do; it was made by one of our clerks and was afterwards verified by myself.

Q. Please state whether it is a correct account of the receipts and disbursements from this property.

A. It is; yes, sir.

Q. I wish you to state whether you know of a sale being made of one of these houses to one General Reynolds; and, if so, what disposition have you made of the proceeds of that sale, and tell all you know about it.

A. The house on the northwest corner of 16th and S was sold to Gen. J. J. Reynolds for $7,500 cash.

Q. Who received that money?

A. I did, in two checks; one of $6,000 and one of $1,500.

Q. What disposition was made of that money?

949 A. The greater part of it was used in paying, as I recollect, overdue taxes and some mortgaged note or notes secured on the property held by the estate of Thomas Adams.

Q. Are you able to say whether or not the matter of the sale to Reynolds appears in the statement that you have furnished?

A. The last statement submitted to me, statement "No. 19, F. H. S. & Son," states in item 4 that this house, 1601 S, was sold June 1st, 1882, for $7,500 to J. J. Reynolds, U. S. A.

Q. Now, state whether that item appears in the statements numbered from 1 to 18, inclusive, or this last statement intended to

cover receipts and disbursements since the date that those 18 statements include.

A. I do not think it is. I am very sure that it is not.

Q. How was that accounted for to the company by your firm?

A. It was accounted for to the company as cash, against which were charged various items, as heretofore stated.

Q. Where does that appear, if it appears at all?

A. It appears on the books. I do not think it appears on these statements.

Q. Look at the book and find where that entry is and what it contains concerning this sale to General Reynolds, receipt of the money by your firm, and its disposition.

A. Check for $6,000 was received June 1st, 1882; June 17th, $1,500, making a total of $7,500. Out of this amount was
950 paid commission, 105 dollars, special improvement taxes on the original corner lot—lot 1, I think it was. It was after subdivided into 6 smaller lots; $1,400 on the same and $7.15 for costs thereon—Adams note, so called—and one which with interest amounting to $3,923.85 includes also some other payments made on other houses.

Q. What I am undertaking to ascertain, Mr. Smith, from your books or from you is how your firm accounted to the company for this $7,500. You have read over 4 items. What was done with the balance?

A. These items were charged against the company. On the other side of the account appears this $7,500, and also some small cash payments on two other houses.

Q. Amounting to how much?

A. Amounting to a total of $7,866.

Q. Then, as I understand you, as against those are the charges of the 4 items you have mentioned. Now, what became of the balance?

A. The balance amounted to $2,784.40. After this was added $238.40, interest, making a total of $2,822.81. This was
951 liquidated on February 2d, 1884, by a check to the order of William R. Hooper for that amount, we having some time previous to that sale by direction of the company commenced to account to Mr. Hooper for them.

Q. Are you able to state at what time your firm opened an account with William R. Hooper in person concerning this property?

A. It was commenced June 4th, 1883.

The WITNESS: The transcript that I have presented, the heading, William R. Hooper, prior to that date is incorrect, June 4th, 1883.

Q. In what name does it appear on your books?

A. In the name of the Massachusetts Mutual Life Insurance Company.

Q. I wish you would examine this statement, which for identity is marked F. H. S. & Son No. 20, and state whether there
952 are any other items of collections or revenues from sales of

this property by your firm not included therein, and be prepared to answer this question at the next session.

Further hearing adjourned to Monday, 8th instant, at 2 o'clock p. m.

953 MONDAY, *November 8th*, 1886—2 o'clock p. m.

Hearing pursuant to adjournment.

Present: Mr. Moulton and Gen. Henkle, for the complainant; Mr. Edwards, for the defendant-. Mr. Terry is also present.

Examination of Mr. FRANK B. SMITH resumed by Mr. EDWARDS:

Q. I call your attention to the last question you were to answer at this session. Read it and then answer it.

Last question of the last session repeated.

A. It includes all except first payments, which were included in statement F. H. S. & Son No. 19.

Q. Then, as I understand you, you kept account of the cash received from the sales of the property?

A. I did.

Q. And these cash receipts appear in this statement No. 19?

A. Cash receipts of first payments, the balance being in statement No. 20.

954 Q. Were the deferred payments on account of the sales of this house represented by notes?

A. After the first payments were made, if they did not amount to $500 or more, no deeds were given until they did amount to $500 or over. If a deed was given and a deed of trust claimed for the balance they were represented by notes.

Q. At the last session I asked you whether the statement No. 19 gave a correct account of the matters therein stated, being the sales of the property, estimate, and so on, and you answered that it was a correct copy. I want to know whether or not the statement contains a correct account of the sales of that property and them matters you stated it does contain.

A. It does.

Q. Are there any items of disbursements made by your firm on account of this property for the purpose you have mentioned not included in the statement you have presented excepting in respect of the item of $7,500, on account of which you mention four certain items of disbursements and the balance having been paid as you stated?

955 A. There are other items of receipts and expenses from same account from which I read the four items. The $7,500 is in an account which includes other first payments on houses, and charged against it are other items.

Q. We understand that, Mr. Smith, and, as I understand, it is in testimony. What I want to know is whether, from any collections made by your firm on account of these houses, either from cash

from sales or any other revenues, you turned money over to the company or to Mr. Hooper or made payments other than what appears in these statements and concerning this item of $7,500.

A. None except what was included in the statement which contains the $7,500.

Q. Do you recollect, as the statement is not here, whether it includes the disbursements made by your firm of the money received by you on account of the property?

A. I do not think that it does.

Q. What did you do with the money received as cash from the sales of this property?

A. After paying any proper charges that might be against
956 the same it was turned over to the company, either directly or through Mr. Hooper.

Q. And does this appear in book form?

A. Yes.

Q. Have you it with you?

A. I have.

Q. State the items that you disbursed from the cash received from the sales of this property, refreshing your memory, if necessary, from the book containing the items. This does not include the four items you have testified to (to save repetition).

A. The sales are all on one side and the charges on the other; you cannot separate one house.

Q. Well, you are able to tell, are you not, what you paid out?

A. Yes.

Q. Well, then, state what it is.

A. March 31st, 1882, we paid as commission on sales of houses 1607, '9, '11, and '13 S street $360.

May 1st, 1882, special improvement tax, $32.78; same date, recording, $6.50; same day, commission sale of house 1414 6th street, $105.

May 5th, commission sale of house 1603 S street, $96.

June 1st, commission for sale of house 1601 S, the corner house, $225; same date, sale of house 1802 16th St., $105.

957 June 15th, commission sale of house #1605 S street, $90. Same date, abstract of title, $30.

June 28th, recording release, $2.50; then follows the four items that I gave the other day.

July 10th, tax lien No. 1424 on lot 1, square 177, $1,400; costs of same, $7.15; Adams' note, with interest on same, $3,923.85.

November 3d, 1882, recording release, $1.25.

Item of $105 for commission, making up the other of these four items, I have mentioned before. That is all.

Q. You stated that certain commissions were paid for sales; to whom were they paid?

A. Paid to ourselves.

Q. Under what agreement, if any, and to whom?

A. The commission was the usual one, and was charged under no agreement that I know of.

Q. Now you charged that on the book to Mr. Hooper?

A. We did.

Q. Then you settled your accounts?

A. Yes, sir; no objection was made to them. The company knew in advance what the commissions were.

Q. I wish you would state whether or not the paper marked F. H. S. & Son No. 20—you are able to state from examination of that paper whether the items of receipts and disbursements men-

958 tioned therein are correct or not.

Gen. Henkle objects, that the witness cannot swear to a statement of expenditures without showing them as such, and the way to prove it is to show that the witness made these expenditures, and that he recollects it, or that he refreshes his memory by reference to entries made in his book at the time. It does not appear that this statement is either a book or that it is a transcript from anything—a true transcript taken from the book; it would not be competent. Objection sustained to the question in its present form.

Q. Can you by refreshing your memory from the entries or disbursements in the book of account kept by you give the items of disbursements made by your firm on account of this property not included in the statements numbered from 1 to 18, both inclusive, and in the testimony just given by you concerning the amounts paid from the cash receipts from the sales?

A. I can.

Q. Now tell us what they were.

A. Whatever appears on this book as paid was paid.

959 Further hearing adjourned to Friday, 12th instant, at 2 o'clock p. m.

960 TUESDAY, *November* 16, 1886—10 o'clock a. m.

Hearing pursuant to adjournment.

Mr. Edwards present for the defendant-, and the witness, Mr. Smith, who appeared with his books. Gen. Henkle was present, and also Mr. Terry.

Gen. Henkle requested an adjournment upon the ground of other engagements, and the hearing is adjourned to Thursday, the 18th, at 10 o'clock.

THURSDAY, *November 18th*, 1886—10 o'clock a. m.

Hearing pursuant to adjournment.

Present: Mr. Moulton and Gen. Henkle, for the complainant; Mr. Edwards, for the defendant-. Mr. Terry is also present.

Examination of Mr. SMITH by Mr. EDWARDS resumed:

Q. Have you with you the day books of your firm con-

961 taining, as I understand you, the original entries of disbursements included in the statement marked F. H. S. & Son No. 20?

A. Yes, sir.

Q. Can you, by turning to the pages in these books showing those entries, testify concerning the disbursements on account of this property between the dates included in this statement 20?

A. I can.

Q. Now state the disbursements during that period.

By Gen. HENKLE:

Q. Do I understand you, Mr. Smith, that by reference to the book you are enabled to state from personal knowledge all these items?

A. From the present knowledge that I made the entries myself.

Q. And that the payments were contemporaneous with the entries?

A. Yes, sir.

Q. And do you know that those payments were made from the fact that you made the contemporaneous entries?

A. Yes, sir, and individually made the payments.

962 Mr. Smith reads entries from Day Book No. 2 of F. H. Smith & Son:

Page.	*Date.*	*Item.*	*Amount.*
	1882.		
11	----------	16th & S streets, as per bill ------	$9 60
18	June 28----------	Water rent, 1816 16th St.----------	6 40
26	July 15 ---- ----	Mitchell, repairs (plumber)--------	12 50
33	August 1st ..----	Gas service, 1804 16th St.----------	11 05
45	September 2 ----	Plumbing ---- ------ ---- ------	13 63
"	" ----	Watchman, 16th & S----------	3 00
46	September 5 ----	Advertising for rent ----------	2 00
48	September 8 ----	Keys, 1806 & '14 16th St.----------	5 75
"	" ----	Cleaning yards of the houses-----	2 50
"	" ----	1818 16th street ----------	1 25
52	September 13----	Calsomining, 1806 16th St. ------	4 00
54	September 18----	Glazing, 1613 S St.----------	2 50
"	" ----	Plastering, 1814 16th St. ---- ----	5 00
60	October 3d ------	Repairs ------ ------ ----------	1 50
"	" ------	Watchman ---------- ----------	2 00
62	October 5th------	Papering, 1806 16th St.----------	13 75
"	" ------	Plumbing ------ ---------- ----	67 10

At this point counsel for the complainant objects to any testimony as to expenditures for the work done upon the houses in completing them and for the payment of taxes.

64	October 7 ------	Glazing ---------- ------ ------	5 00

963

	1882.		
69	October 17 ------	Plumbing, 1822 16th St. ---- ----	3 00
"	" ------	Gas bill, 1806 16th St. ------ ----	13 80
71	October 20th ----	Glazing, 1812 16th St. ---- ------	75

Page.	*Date.*	*Item.*	*Amount.*
	1882.		
73	October 26	Gas service, 1820 16th St.	$11 55
74	October 28	Concreting	24 25
"	"	Laying same	9 50
"	"	Water rent, 1820 16th St.	75
"	"	Papering, 1816 16th St.	19 48
75	October 30	Gas connection	11 05
"	"	Cleaning yard	50
"	"	Shelves and racks	3 68
"	"	Isinggglass	18
"	"	Lock	1 00
"	"	Storm door and poker (house occupied by E. W. Waters)	50
"	"	Painting, 1814 20	10 00
78	November 2d	Carpentering work, 1814 20	10 00
81	November 4	Watchman	1
"	"	Paint., 1814, '18, '20	6
82	November 6	Carpentering work, 1814	12 50
85	November 11	Fire insurance	25
88	November 14	Carpenter	4 25
94	November 27	Paint., 16th St.	5
95	November 29	Taxes, ½ year	323 28
97	December 2	Watchman	1
99	December 6	Gas fixtures, 1804 16th St.	32 75
"	"	Papering, 1814 16th St.	19 70
102	December 11	Plastering & whitewashing	3
964			
102	December 11	Plumbing	19 60
105	December 15	Paint.	6 45
109	December 26	Lumber	9 67
	1883.		
112	January 2	Watchman	1 00
119	" 18	Hardware, E. Bailey	6 06
"	"		77 90
"	"	W. R. H., personal	4
"	"	1816, 1812	3 30
	(These last are various plumbing bills.)		
121	January 22	Repairing roof	1 25
"	"	Water rent	2 48
"	"	Put wooden partitions in 1820	2 50
124	January 29	Watchman, 1814 16 St.	1 00
125	January 31	Chimney sweep, 1814 16 St.	2 00
126	February 1	Frozen water pipes, plumbing, 1804	6 00
128	Feb'y 5	J. Mitchell (plumbing) to date	56 70
130	" 8	Thos. W. Smith, for lumber	4 60
"	"	" " "	10 86
137	Feb'y 28	Stove repairs	2 40

Page.	*Date.*	*Item.*	*Amount.*
	1883.		
139	March 3d	Papering, 1814 16th St.	$9 10
"	"	Plumbing, 1814 16 St.	9 40
146	March 22	Fire insurance, dated M'ch 16	10
148	March 26	Water rents, 1816, 1820 16th St.	8 40
153	April 5	Repairing roof and ceiling for Lieut. Nazaro, 1814 16th St.	4 25
154	Ap'l 9th	Plumbing	6 30
155	Ap'l 10	Half-division fence between 1802 & 1807	22 61
167	May 3d	John Mitchell (plumbing)	3 55
965			
176	June 1	Watchman	75
177	June 2	Papering, 1810 16th St. N. W.	9 00
"	"	Plumbing	1 50
178	June 4	Star	1 00
180	June 11	Cost of ejectment proceedings, Pritchard, 1822 16th St.	1 50
"	"	Papering, 1804 16 St. N. W.	47 30
181	June 13	Advertising for rent, 1822 16th St. N. W.	1
188	July 3	Watchman, 1804, '16, '22	2 50
190	July 6	Advertising, Star, 16th St.	1 00
"	"	Water rent, 1820	4 40
"	"	Water rent, 134 Mass. Ave.	4 95
199	August 1	Watchman	3
202	August 4th	Fence cor. Mass. Ave. & 2d Sts.	60
"	"	Repairs	19 50
204	August 10	Fence, 134 Mass. Ave.	20
211	Sept. 1	Watchman	3
213	Sept. 4	J. H. Gibbons, fence	21
222	Sept. 24	Water rent, 1816 16 St. N. W.	6 40
223	Sept. 28	Calsomine	20
"	"	Paint	2 35
"	"	Plumbing & range	5 65
	(These three last items for house 1806 16th St.)		
224	Sept. 29	Water rent, 1822 16th St.	6 40
226	Oct. 2	Watchman	4
227	Oct. 3	Plumbing, house 1820 16th St.	2 50
228	Oct. 4	Whitewashing, &c., 1822 16th St.	6 75
966			
229	Oct. 8	Papering, 1814 16th St.	$3 90
"	"	Papering, 1822 16th St.	22 35
"	"	Papering, 1818	30 70
"	"	Notary, C. Brandt	50
230	Oct. 27	House 1814	23 50

Page.	Date.	Item.	Amount.
	1883.		
239	Nov. 2	Repairs for Waters' house	$17 12
"	"	Watchman	2
"	"	John Mitchell (plumber)	15 52
241	Nov. 5	Insurance	25
242	Nov. 8	Plumbing, 1820 16th St.	3
243	Nov. 9	Papering	37 25
244	Nov. 12	Advertising for rent	75
"	"	Fire insurance	6 25
247	Nov. 19	Watchman	2
248	Nov. 22	Ac. H. A. Johnson	2

Mr. EDWARDS: Explain this item.

WITNESS: Ejectment suit before justice of the peace; the item is for cost.

Q. Concerning this house?

A. Yes, sir.

250	Nov. 30	Gibbons (carpenter), 1810 & 1822	20
"	"	Plumbing, 1810	4 95
251	Dec. 3d	Water rent, 1804	6 40
254	Dec. 8	Advertising, record	7

Q. State what this refers to.

A. My recollection is that this was a landlord and tenant
967 case which was brought, and this bill was for advertisement in the Law Reporter.

259	Dec. 21	Putting lock on 1820	1 25
262	Dec. 28	Gas bill, 1804	1 75
263	Dec. 29	Watchman	2
"	"	Carpentering, 1812	6
"	"	Taxes	224 07
	1884.		
264	Jan'y 2	Repairs, 1814	1 50
266	Jan'y 5	Paid Geo. Smith for 1804	13 50

Q. Have you any independent recollection that George Smith was a mechanic of some kind?

A. My recollection is that he was a carpenter; I am not positive.

266	Jan'y 5	1822, 1804, Mitchell (plumber)	16
267	Jan'y 7	Painting, 1816	6
"	"	Cleaning of- snow	1
269	Jan'y 14	Justice of the Peace *vs.* Edie	2
270	Jan'y 15	Gas bill, 1816	3 30
272	Jan'y 19	Papering, 1816	48 99
"	"	Ejectment, 1810, Edie	4
273	Jan'y 23	Hayward & Hutchinson (plumbers and stove dealers)	62 15

Page.	*Date.*	*Item.*	*Amount.*
	1884.		
276	Feb'y 2	Watchman	$3
"	"	Keys, 1816	3
"	"	Calsomining, &c., 1816	15 50
968			
287	March 1	Watchman	3
290	March 4	Cleaning off snow	50
"	"	Plumbing, 2d & Mass. Ave.	6
"	"	Plumbing, 1816 16th St.	6 50
291	March 5	Plumbing	98 34
292	March 7	To insurance, Caverly	14 45

WITNESS: Items which are known as cash items when they are not paid on a particular day are charged up to what we call the miscellaneous account and what we used to call the insurance account, because insurance policies appear here paid a day or two before they are contracted.

Mr. EDWARDS:

Q. Explain the connection this charge for money expended for this item has to this property.

A. It means that a bill Mr. Caverly was paid which probably did not at the time show to what house it should be charged, and it was therefore temporarily charged to the insurance account until some of us had seen Mr. Caverly.

Q. Then, I unde-stand you, Caverly did plumbing on these houses and you paid Caverly by insuring his property?

A. No, sir; this was a direct payment to Caverly on account of the plumbing done to these houses.

969			
295	March 17	Fire insurance, 1804 16th St.	5
"	"	W. R. H., fire insurance	5

Mr. EDWARDS: I now offer the next Day Book No. 3, F. H. Smith & Son:

Page.	*Date.*	*Item.*	*Amount.*
	1884.		
3	April 1	Watchman & snow	3 50
"	"	J. H. Gibbons (carpenter), 1804 16th St.	6 60
"	"	J. H. Gibbons (carpenter), 2d & Mass. Ave.	11
4	April 2d	Papering, 1808 16th St.	52 85
"	"	Plumbing	9 82
5		Repairs, 1806	11 25
"		1814 16th St., latrobes	6
6	April 4	Whitewashing, 1808	2 50
16	May 1st	By reference to the ledger I find this is for watchman	2

Page.	Date.	Item.	Amount.
	1884.		
18	May 2d	1816, plumbing	$8 60
19	May 5th	Keys, 1804 16th St.	4 50
21	May 10th	2d & Mass. Ave., plastering	6
28	June 3d	Watchman	3
29	June 3d	Range, 1816	2 35
40	July 1st	134 Mass. Ave., water rent	4 99
"	"	1820 16th St., N. W., water rent	4 40
"	"	Watchman	3
30	July 22	2d & Mass. Ave., plumbing	2 40
53	Aug. 1	Watchman	3
"	"	2d & Mass. Ave. (this was repairing roofs)	10 20
970			
54	August 2d	Keys, 1810 & '12 16th St.	1
56	August 5	Water rent, 1810, 1812	8 80
"	"	Spelshouse (paper-hanger & calsominer).	2 50
57	August 6	Plumbing	6 70
65	August 30	Watchman	3
"	"	Key, 1806	50
66	September 2	Spelshouse, 1820 (Spelshouse is a paper-hanger)	21 60
"		Paid Spellshouse, 1816	2 50
74	Sept. 10	W. R. Hooper, 1810; Spellshouse	56 50
"	"	1820, Spellshouse (paper-hanger)	68 25
79	Sept. 27	Watchman	2 50
82	Oct. 4	2d & Mass. Ave. (this is for plumbing by reference to the ledger)	9 25
83	Oct. 6	Item which by reference to the ledger appears to be for carpentering work	53 75
84	Oct. 8	Hayward & Hutchinson (plumbers & stove dealers)	42 40
95	Nov. 1	Plumbing, houses 1810, 1808	27 53
"	"	Watchman	1 75
97	Nov. 3	Fire insurance	25
111	Dec. 2	Painting Lieutenant Bowman's house	7
112	Dec. 2	Hayward & Hutchinson (stove dealers)	13 05
"	"	Plumbing	6 25
"	"	Gibbons (carpenter)	80 85
119	Dec. 15	Water rent, 1808	6 40
125	Dec. 31	Hayward & Hutchinson (stove dealers & plumbers)	4 45
971			
	1885.		
128	Jan'y 6	Plumbing, 1812, 1808, 1810	9 90
134	Jan'y 17	Fire insurance	3 75
138	Jan'y 27	Carpentering work	30 40
140	Feb'y 2	Spellshouse (paper-hangers)	2
"	"	Hayward & Hutchinson (plumbers & stove dealers)	12 35

Page.	*Date.*	*Item.*	*Amount.*
	1885.		
143	Feb'y 5	Advertising	$1 35
"	"	J. P., justice of the peace, *vs.* Flip	1
"	"	Plumbing	5 76

The hearing is here adjourned to 1 o'clock in the afternoon.

972 THURSDAY, *November 18th*, 1886—1 o'clock p. m.

Hearing pursuant to adjournment.

Present: Mr. Moulton and Gen. Henkle, for the complainant; Mr. Edwards, for the defendant-. Mr. Terry is also present.

Witness, Mr. SMITH, resumes reading entries from day book.

Page.	*Date.*	*Item.*	*Amount.*
	1885.		
153	March 2	Plumbing	$14 35
156	March 9	2nd & Mass. Ave., insurance	3 75
165	M'ch 28	J. Mitchell (plumber)	3 90
167	Ap'l 1	Hayward & Hutchinson, stove-work	12 30
174	Ap'l 11	C. F. Johnson's house (painting)	8
175	Ap'l 14	Repairing back steps	75
178	Ap'l 22	Fire insurance	7 50
184	May 1	Hayward & Hutchinson (plumbers)	8 65
187	May 5	Bell-hanging	2
"	"	Plumbing	3 50
190	May 7	Plumbing	1 00
199	May 28	Papering	14 60
200	May 30	Carpentering work	11 55
216	June 23	H. Steinberg (for painting)	39 50
220	July 2	Hayward & Hutchinson	2 25
973			
221	July 3	1804 (carpenter work)	8 20
230	July 20	1806,'14,'16 16th St., 134 Mass. Ave., for water rent	18 15
236	July 31	Hayward & Hutchinson	10 70
245	Aug. 18	Watchman to August	4
250	Aug. 29	Stove-work, 1816	8
"	"	1816, calsomining, &c.	6 25
"	"	Hayward & Hutchinson (plumbers)	4 40
258	Sept. 15	Watchman	4
260	Sept. 21	Plum-ing	4
264	Oct. 1	Advertisement for rent	2
268	Oct. 6	Roof, cor. Mass. Ave. & 2d Sts.	25
274	Oct. 13	Watchman	3 50
"	"	John Mitchell (plumber)	1 75
276	Oct. 17	Papering	28 75

Page.	Date.	Item.	Amount.
	1885.		
282	Nov. 2	Hayward & Hutchinson	$6
283	Nov. 3	Bell-hanging	75
286	Nov. 6	Insurance (fire)	15
291	Nov. 16	Watchman	1 50
301	Nov. 30	Taxes, sub 14, square 722	12 16
"	"	Sub 82, 86, & 98, inclusive, sqr. 177	218 68
302	Dec. 1	Water-closet, 1816	2 50
305	Dec. 4	Papering	7 80
306	Dec. 5	Painting	11
	1886.		
323	Jan'y 6	Carpentering work, 1820	3 50
"	"	Repairs, Hayward & Hutchinson (plumbers & stove-dealers)	22 30
974			
327	Jan'y 16	F. W. Corbett	25 55
335	Feb'y 1	Plumber, 1808	5
"	"	Hayward & Hutchinson (plumbers)	16 65
335	Feb'y 1	Ellis, plastering, 1808	20
342	Feb'y 12	Stoves, 1808	9 60
347	Feb'y 20	Bill for repairs	2
350	M'ch 1	Tin-work	18
352	" 2	Repairing tin roof, &c.	17 50
356	" 8	Fire insurance	3 75
362	" 18	"	7 50
367	" 31	W. O. Berry, repairs to roofs	56 25
"	"	Gas bill, 1820	7 50
375	Ap'l 12	Papering, 1802	4 35
385	May 1	New spigot	1 50
386	" 3	Hayward & Hutchinson	5 85
"	" "	John Mitchell (plumber)	18 15
"	"	W. O. Berry (stoveman)	11 25
388	May 4	New water-closet, 1816	35
398	" 24	Taxes, 2d half, 1886	222 22
399	" 28	John Mitchell (plumber)	1
402	June 1	Repairs, 1808	2 70
403	" 2	Repairs, 1820	4
"	July 7	I find the ledger payment as follows: Justice of the peace	2
429	July 22	Plastering	6
438	Aug. 3	Plumbing (Mitchell)	8 35
439	Aug. 4	Water rent, 1812	4 40
457	Sept. 4	Plumbing	7 15

975 Mr. EDWARDS: Now give the revenues from rental of this property during the period covered by the disbursements you have just mentioned.

Further hearing adjourned to Monday, the 22, at 1 p. m.

MONDAY, *November* 22, 1886—2 o'clock p. m.

Hearing pursuant to adjournment.

Present: Mr. Edwards for the defendants, and the witness, Mr. Smith.

Thereupon witness proceeds to answer the question propounded to him at the last session.

Day Book 2.

Page.	*Date.*	*Item.*	*Amount.*
	1882.		
8	June 29	1810 16th St.	$20 45
19	June 30	1812 16th St.	27 50
"	"	1820	40
25	July 12	Cor. 2d & Mass. Ave.	25 45
27	June 17	1816 16th St.	27 50
32	July 29	F. H. Springer	27 50
"	"	1804	25
34	Aug. 2	1816 16th St.	27 50
976			
44	Aug. 28	1812 16th St.	15
50	Sept. 11	C. T. Johnson, 2d & Mass. Ave.	36 75
51	Sept. 12	1804 16th St.	25
53	" 15	(Springer) 1812	12 50
59	Oct. 2	1812	15
"	"	1814	25 50
"	"	(Collison) 1808	25
60	Oct. 3	1816 16th St.	46 50
61	" 4	(Van Heusen) 1810	3 50
63	" 6	(Phipp) 1818	27 50
65	" 9	Johnson (2d & Mass. Ave.)	25
"	"	1804	25
69	Oct. 17	1816	27 50
70	" 18	1812	12 50
75	" 30	(Waters) 1806	50
76	" 31	(Collison) 1808	25
79	Nov. 3	1810	25
84	" 10	2d & Mass. Ave.	25
85	" 11	1804	25
88	" 14	1816	27 50
89	" 15	1812	15
95	" 29	(Collison) 1808	25
96	Dec. 1	1820	27 50
98	" 5	1804	25
100	" 7	(Dorn) 1816	27 50
103	" 12	(Johnson) 2d & Mass. Ave.	15
108	" 20	1808 16th St.	15
110	" 28	1806	25

Page.	*Date.*	*Item.*	*Amount.*
977			
	1883.		
112	Jan'y 2	1810	$25
"	"	1820	27 50
114	Jan'y 5	1804	25
121	" 22	(Johnson) 2d & Mass. Ave.	35 90
124	" 29	1808	30
125	" 31	1806	25
"	"	1810	25
126	Feb'y 1	1820	27 50
"	"	1804	25
128	Feb'y 5	(Johnson) 2d & Mass. Ave.	35 45
131	" 12	1816	27 50
137	" 28	1806	25
"	"	1808	20
"	"	1812	25
"	"	1810	25
138	M'ch 2	1820	27 50
"	"	Phipp (1818)	20
140	M'ch 5	C. F. Johnson (2d & Mass. Ave.)	30 45
142	" 9	1804	25
144	" 15	1816	27 50
149	" 29	1812	25
"	"	1808	30
150	"	1806	25
"	"	1820	27 50
"	"	1810	25
151	Ap'l 4	1804	25
152	" 4	1818	25
153	" 5	2d & Mass. Ave.	25 45
978			
153	Ap'l 5	1816	27 50
"	"	1814	27 50
164	Ap'l 30	1820	27 50
165	May 1	1806	25
"	"	1814	27 50
166	May 2	1804	25
"	"	1818	30
167	May 3	1808	25
168	" 5	Johnson (2d & Mass. Ave.)	30
169	" 8	1816	27 50
155	Ap'l 10	Springer	12 50
"	"	Najero	52 50
"	"	Phipp	117 50
"	"	Dorn	27 50
176	June 1	J. H. King (1820)	27 50
"	"	1806	25
177	June 2	1814	27 50

Page.	Date.	Item.	Amount.
	1883.		
177	June 2	1808	$30
"	"	1818	25
178	June 4	Ridgway (1804)	25
"	"	Johnson (2d & Mass. Ave.)	25
179	June 7	Springer (1812)	25
181	" 13	1816	27 50
188	July 3	Waters (1806)	25
"	"	1820	27 50
190	July 6	1814	15
192	" 9	Phipp (1818)	27 50
979			
192	July 9	1816	13 75
193	" 12	Collison (1808)	25
199	Aug. 1	1814	15
"	"	1810	27 50
200	Aug. 2	Waters (1806)	25
201	" 3	1820	27 50
"	"	Johnson (Mass. Ave. & 2d)	40
211	Sept. 1	1810	25
212	" 3	1818	27 50
213	" 4	1820	27 50
"	"	1808	12
214	Sept. 5	Johnson (2d & Mass. Ave.)	25 90
"	"	Waters (1806)	25
217	Sept. 12	1814	15
219	" 17	1816	27 50
222	" 24	Belford (1822)	13 75
223	" 28	1806	25
224	" 29	1808	30
"	Sept. 29	1818	27 50
226	Oct. 2	1810	20
227	" 3	1814	15
"	"	1820	27 50
230	Oct. 13	1822	13 75
238	Nov. 1	Phipp (1818)	27 50
"	"	Collison (1808)	30 00
237	Oct. 29	1822	13 75
239	Nov. 2	Waters (1806)	50
"	"	1814	27 50
980			
240	Nov. 3	1820	27 50
242	" 8	Johnson (2d & Mass. Ave.)	23
245	" 14	1822	13 75
246	" 17	1810	25
250	" 30	1814	27 50
251	Dec. 3	1822	13 75

Page.	*Date.*	*Item.*	*Amount.*
	1883.		
252	Dec. 4	1820	$27 50
254	" 8	1818	27 50
"	"	1804	27 50
256	Dec. 14	1822	13 75
260	" 24	1822	13 75
	1884.		
264	Jan'y 2	1814	27 50
"	"	Waters (1806)	25
265	Jan'y 3	Johnson (2d & Mass. Ave.)	35
266	Dec. 5	1804	27 50
"	"	1820	27 50
270	Jan'y 15	1822	13 75
275	" 30	Belford (1822)	13 75
276	Feb'y 2	1818	55
"	"	1814	27 50
277	Feb'y 4	Waters (1806)	25
"	"	1820	27 50
"	"	Diller (1804)	27 50
278	Feb'y 7	Johnson (2d & Mass. Ave.)	30
281	" 15	1822	13 75
287	M'ch 1	1814	27 50
288	" 3	1822	13 75
981			
289	March 3	1816	41 25
290	" 4	Johnson (2d & Mass. Ave.)	40
"	"	1806	25
"	"	1820	27 50
292	M'ch 7	1804	37 50
294	" 13	1822	13 75

Day Book No. 3.

4	Ap'l 2	Belford (1822)	13 75
5	" 3	1816	27 50
"	"	Waters (1806)	25
6	Ap'l 14	Johnson (2d & Mass. Ave.)	35
"	"	1804	27 50
"	"	1820	27 50
8	Ap'l 4	1814	27 50
9	" 14	Mackay (1808)	30
10	" 16	Belford (1822)	13 75
15	" 29	1822	13 75
16	May 1	1818	27 50
"	"	Diller (1804)	27 50
"	"	Waters (1806)	25
17	May 1	1816	27 50
18	" 2	Phipp (1818)	27 50
20	" 5	1820	27 50

Page.	Date.	Item.	Amount.
	1884.		
20	May 5	Johnson (2d & Mass. Ave.)	$25
22	May 13	Belford (1822)	13 75
23	" 19	1808	30
27	June 2	Najero (1814)	15
982			
29	June 3	1816	27 50
"	"	Phipp (1818)	27 50
"	"	Belford (1822)	13 75
"	"	King (1820)	27 50
30	June 4	Diller (1804)	27 50
31	" 5	Johnson (2d & Mass. Ave.)	15
35	" 6	Belford (1822)	13 75
40	July 1	Najero (1814)	15
41	" 2	Diller (1804)	30
42	" 2	Belford (1822)	13 75
"	"	Bowman (1816)	27 50
43	July 3	1820	27 50
"	"	Johnson (2d & Mass. Ave.)	30
"	"	Phipp (1818)	32 50
48	July 16	Belford (1822)	13 75
53	Najero (1814)		15
"	"	Belford (1822)	13 75
"	"	Bowman (1816)	27 50
54	Aug. 2	King (1820)	27 50
54	Aug. 2	Phipp (1818)	27 50
57	" 6	2d and Mass. Ave.	25
60	" 16	Belford (1822)	13 75
66	Sept. 2	Belford (1822)	13 75
"	"	Najero (1814)	15
"	"	Bowman (1816)	27 50
67	Sept. 2	King (1820)	27 50
72	" 5	Merrill (1812)	5
74	" 10	Belford (1822)	13 75
983			
79	Sept. 27	Belford (1822)	13 75
80	Oct. 1	King (1820)	27 50
"	"	Bowman (1816)	27 50
82	Oct. 4	Johnson (2d & Mass. Ave.)	26
83	" 6	1809	37 50
"	"	Phipp (1818)	27 50
85	Oct. 9	Najero (1814)	15
"	"	Merrill (1812)	22 50
88	Oct. 16	Belford (1822)	13 75
90	" 21	Abbott (1808)	5
91		Hepper (1810)	27 50
95	Nov. 1	Najero (1814)	27 50

Page.	*Date.*	*Item.*	*Amount.*
	1884.		
96	Nov. 3	King (1820)	$27 50
96		Bowman (1816)	27 50
103	Nov. 14	Belford (1822)	13 75
104	" 17	Merrill (1812)	27 50
107	Nov. 22	Diller (1804)	27 50
110	" 30	Belford (1822)	13 75
111	Dec. 2	1804	27 50
"	"	Abbott (1808)	30
"	"	Bowman (1816)	27 50
112	"	Happer (1810)	27 50
"	"	King (1820)	27 50
"	"	Gibbons (1806)	27 50
113	Dec. 3	Johnson (2d & Mass. Ave.)	35
"	"	Merrill (1812)	27 50
119	Dec. 15	Belford (1822)	13 75
125	" 31	Najero (1814)	27 50
984			
125	Dec. 31	Belford (1822)	13 75
"	"	Diller (1804)	27 50
"	"	Happer (1810)	27 50
126	Jan'y 3	King (1820)	27 50
"	"	Merrill (1812)	27 50
127	Jan'y 5	Bowman (1816)	27 50
"	"	Abbott (1808)	27 50
133	Jan'y 15	Belford (1822)	13 75
137	" 27	Gibbons (1806)	24 60
138	" 27	Phipp (1818)	27 50
140	Feb'y 2	King (1820)	27 50
141	" 2	Happer (1810)	27 50
"	"	Belford (1822)	13 75
"	"	Abbott (1808)	27 50
142	Feb'y 4	Merrill (1804)	27 50
"	"	Bowman (1810)	27 50
"	"	Diller (1804)	27 50
143	Feb'y 5	Johnson (2d & Mass. Ave.)	
"	"	Najero (1814)	27 50
147	Feb'y 16	Belford (1812)	13 75
152	M'ch 2	Bowman (1816)	27 50
153	" 2	Merrill (1812)	27 50
"	"	Happer (1810)	27 50
"	"	Diller (1804)	27 50
154	M'ch 3	Belford (1822)	13 75
"	"	Abbott (1808)	27 50
155	M'ch 5	Johnson (2d & Mass. Ave.)	25
"	"	Najero (1814)	27 50

985

Page.	*Date.*	*Item.*	*Amount.*
160	M'ch 16	Gibbons (1806)	$27 50
161	" 17	Belford (1822)	13 75
166	" 31	Belford (1822)	13 75
167	Ap'l 1	King (1820)	27 50
"	"	Merrill (1812)	27 50
166	Ap'l 2	Happer (1810)	27 50
"	"	Bowman (1816)	27 50
169	Ap'l 3	Abbott (1808)	27 50
170	" 4	Diller (1804)	27 50
171	" 6	Najero (1814)	27 50
172	" 8	Johnson (2d & Mass. Ave.)	26
175	" 14	Belford (1822)	13 75
184	May 1	Belford (1822)	13 75
"	"	Phipp (1818)	25
185	May 2	Happer (1810)	27 50
"	"	King (1820)	27 50
"	"	Diller (1804)	27 50
"	"	Bowman (1816)	27 50
185	May 5	Najero (1814)	27 50
189	" 6	Merrill (1812)	27 50
190	" 7	Johnson (2d & Mass. Ave.)	25
193	" 12	Abbott (1808)	27 50
194	" 14	Belford (1822)	13 75
195	" 16	Diller (1804)	40
197	" 23	Phipp (1818)	2 50
200	" 30	Belford (1822)	13 75
201	June 1st	Phipp (1818)	25

Further hearing adjourned, subject to notice.

986 TUESDAY, *November 23d*, 1886—8 o'clock p. m.

Hearing pursuant to notice.

Present: Mr. Moulton, for the complainant; Mr. Edwards, for the defendant-; Mr. Terry also is present.

Examination of Mr. SMITH continued:

Page.	*Date.*	*Item.*	*Amount.*
	1885.		
202	June 1st	1810	27 50
203	" 2d	1808	27 50
"	"	1816	27 50
204	June 4	1820	27 50
"	"	1814	19 25
204	June 3	Merrill (1820)	27 50
206	" 5	Johnson (2d & Mass. Ave.)	26
212	" 15	1820	27 50
213	" 16	1822	13 75

Page.	*Date.*	*Item.*	*Amount.*
	1885.		
219	July 1	1808	$27 50
"	"	1818	2 50
222	July 6	1816	27 50
223	" 7	Johnson (2d & Mass. Ave.)	25
224	" 8	1818	27 50
226	" 13	1812	27 50
228	" 16	Happer (1810)	27 50
231	" 21	1820	20
236	" 31	Cooper (1822)	27 50
987			
236	July 31	1808	27 50
237	Aug. 1	1812	27 50
238	" 3	1818	25
"	"	Johnson (2d & Mass. Ave.)	25
247	Aug. 20	Cooper (1822)	27 50
249	" 27	Snyder (1820)	10
250	" 29	Happer (1816)	27 50
251	Sept. 1	1808	27 50
252		Phipp (1818)	25
262	Sept. 26	1814	5
263	" 28	1822	27 50
264	Oct. 1st	1812	27 50
"	"	Phipp (1818)	25
265	Oct. 2	Reynolds (1808)	27 50
266	" 2	1816	27 50
268	" 6	Johnson (2d & Mass. Ave.)	30
270	" 8	1820	5
275	" 16	1804	27 50
281	" 31	1810	5
"	"	1822	27 50
282	Nov. 2	Reynolds (1808)	27 50
282	" 2	Reynolds (1808)	27 50
"	" 2	1822	27 50
282	" 2	Reynolds (1808)	27 50
"	" 2	1820	27 50
"	" 2	1820	27 50
"	" 2	1816	27 50
283	" 3	1812	27 50
988			
283	Nov. 3	Phipp (1818)	30
284	" 4	1810	16
"	"	1804	27 50
285	Nov. 5	Johnson (2d & Mass. Ave.)	24
"	"	1814	10
288	Nov. 11	1806	17 40
300	Nov. 30	1820	27 50

Page.	Date.	Item.	Amount.
	1885.		
300	Nov. 30	Merrill (1812)	$27 50
301	"	1822	27 50
302	Dec. 1	1810	27 50
"	"	1806	27 50
304	Dec. 2	1808	27 50
"	"	Diller (1804)	27 50
"	"	1814	12 50
305	Dec. 4	Johnson (2d & Mass. Ave.)	30
306	" 5	1818	27 50
317	" 29	1816	27 50
"	"	1810	27 50
318	Dec. 30	(1822) Cooper	27 50
319	Dec. 31	(1812)	27 50
"	"	Kirby (1814)	10
	1886.		
320	Jan'y 2	1806	27 50
"	"	Schultz (1820)	16 65
321	Jan'y 5	Reynolds	27 50
322	" 6	Johnson (2d & Mass. Ave.)	30
323	" 6		10 85
"	"	1804	27 50
325	Jan'y 9	1818	25
989			
333	Jan'y 28	1814	10
334	" 30	1810	27 50
"	"	1822	27 50
335	Feb'y 1	1804	27 50
"	"	1812	27 50
"	"	1820	13 75
336	Feb'y 1	1806	27 50
"	"	1816	27 50
338	Feb'y 3	Johnson (2d & Mass. Ave.)	30
"	"	1804	27 50
340	Feb'y 8	Kirby (1814)	10
343	" 13	Kirby (1814)	5
347	" 20		10
348	" 25	Kirby (1814)	10
340	" 8	1818	2 50
351	M'ch 1	Phipp (1818)	25
344	Feb'y 15	1820	6 75
348	" 25	1822	27 50
345	" 17	Schultz (1820)	7
349	" 27	1810	27 50
"	"	1812	27 50
350	M'ch 1	1806	27 50
352	" 2	1804	27 50
"	"	Reynolds (1808)	27 50

Page.	*Date.*	*Item.*	*Amount.*
	1886.		
352	M'ch 2	1816	$27 50
355	M'ch 6	Johnson (2d & Mass. Ave.)	25
359	" 12	Kirby (1814)	10
355	" 6	1814 Kirby	5
990			
363	March 19	1814 Kirby	5
370	Ap'l 2	1814 Kirby	5
367	M'ch 31	1810	27 50
"	"	1822	27 50
368	Ap'l 1	1806	27 50
369	"	1816	27 50
369	"	1812	27 50
37	Ap'l 2	1804	27 50
"	"	1808	27 50
374	Ap'l 8	Phipp (1818)	25
380	" 23	1814	10
303	" 30	1822	27 50
"	"	1810	27 50
384	May 1	Niernsee	27 50
385	" 1	Happer (1816)	27 50
"	" 1	1812	27 50
387	" 4	Reynolds (1808)	27 50
"	"	1804	75
400	May 29	1814 (Kirby) 3 items	24
"	"	1808	27 50
"	"	1810	27 50
"	"	1822	27 50
401	June 1st	1812	27 50
"	"	1816	27 50
"	"	1806	27 50
403	June 2	1820	27 50
417	June 28	1808	27 50
418	" 30	1822	27 50
991			
418	June 30	1814 (Kirby)	7
419	" 30	1810	27 50
42	July 1	1812	27 50
420	"	1820	27 50
421	July 2	1806	27 50
340	July 22	1812	27 50
435	July 31	1806	27 50
436	Aug. 2	1822	27 50
"	"	1810	27 50
437	"	1812	27 80
"	"	1820	15
438	Aug. 3	1816	27 50

Page.	Date.	Item.	Amount.
	1886.		
439	Aug. 4	Reynolds (1808)	$27 50
447	" 17	Niernsee (1820)	10
452	" 31	1812	27 80
452	Sept. 1	1820	30
455	" 2	1810	27 50
456	" 3	1816	27 50
"	"	1806	25

Q. Now, give the collections from sales, from the deferred payments on account of sales, during the period covered by the distributions and the rents you have just furnished.

A. (Witness answered as follows:)

Day Book 2.

Page.	Date.	Item.	Amount.
20	July 3	Jesse H. Robinson	30 45
992			
31	July 6	Brandt	30
31	"	Voss	30 45
28	July 18	Robinson	30 60
28	"	Lambson	30
34	Aug. 2	Brandt	30
35	" 3	Voss	30 60
41	" 17	Lambson	30
45	Sept. 2	Robinson	30 75
"	"	Brandt	30
46	Sept. 5	Voss	30 75
53	" 15	Lambson	30
58	" 30	Robinson	30
"	" "	Robinson, 6 months' interest	80 10
59	Oct. 2	Brandt	30
"	"	Brandt, interest	36 85
"	"	Bremer	30
"	"	Bremer, 6 months' interest	84 60
61	Oct. 4	Brandt, balance of interest for 6 months	50
60	Oct. 3	Voss	30 90
"	"	Voss, interest	83 70
68	Oct. 16	Lambson	30
76	" 31	Voss	30 15
77	Nov. 1	Robinson	30 15
95	" 29	Bremer	30
96	Dec. 1	Lambson, 6 months' interest	86 25
"	"	Robinson	30 30
80	Nov. 3	Bremer	30 15

993

Page.	*Date.*	*Item.*	*Amount.*
97	Dec. 2	Voss	$30 30
96	" 1	Brandt	30 30
100	" 7	Lambson	29
111	" 30	Bremer	30
"	"	Robinson	30 45
	1883.		
112	Jan'y 2	Voss	30 45
"	"	Brandt	30 15
125	Jan'y 31	Brandt	30 90
"	"	Bremer	60
126	Feb'y 1st	Robinson	30 60
"	"	Voss	30 60
"	Feb'y 6	Lambson	30
137	Feb'y 28	Brandt	30 75
"	" 28	Bremer	60
138	M'ch 2	Robinson	30 75
139	M'ch 3	Voss	30 75
154	Ap'l 9	Voss	30 90
"	"	Interest	78 30
155	Ap'l 10	Robinson, note No. 1	30
"	"	Robinson, interest	74 70
156	Ap'l 11	Bremer	30
"	"	Interest	76 50
"	"	Brandt	30 90
"	"	Brandt, interest	78 30
160	Ap'l 19	Lambson	30
163	" 27	Brandt	30 15
164	" 30	Bremer	50

994

164	Ap'l 30	Interest	12 50
165	May 1	Robinson	30
"	"	Interest	12 30
167	May 3	Voss	30 15
175	" 29	Brandt	30 30
"	"	Robinson	30 15
"	"	Bremer	40
178	June 4	Voss	30 30
186	" 26	Robinson	30 30
187	July 2	Bremer	30 60
190	" 6	Voss	30 45
199	Aug. 1	Bremer	30 45
"	"	Brandt	30 60
"	"	Brandt	30 45
200	Aug. 2	Robinson	30 45
203	" 6	Voss	30 60
210	Aug. 28	Brandt	30 75
211	Sept. 1	Bremer	30 60

Page.	*Date.*	*Item.*	*Amount.*
	1883.		
212	Sept. 3	Robinson	$30 60
218	" 15	Voss	30 75
224	" 29	Bremer	30 75
226	Oct. 2	Robinson	30 75
225	Oct. 1	Brandt	30 90
"	"	Brandt, interest	72 90

Further hearing adjourned to Monday, the 29 of November, 1886, at 7.30 o'clock p. m.

995 MONDAY, *November 29th*, 1886—7.30 o'clock p. m.

Hearing pursuant to adjournment.

Present: Mr. Moulton, for the complainant; Mr. Edwards is present for the defendant, and Mr. Terry is also present.

Mr. SMITH's examination is resumed by Mr. EDWARDS, and he continues to testify in reply to the last question of Mr. EDWARDS:

Page.	*Date.*	*Item.*	*Amount.*
	1883.		
235	Oct. 1	Voss	30 90
"	"	Voss, interest to Oct. 1	72 00
238	Nov. 1	Bremer	30 90
"	"	Bremer, interest	69 30
237	Oct. 29	Robinson, note No. 8	30
"	"	Robinson, interest	68 40
239	Nov. 2	Brandt	30
"	"	Brandt, interest	12 15
248	Nov. 22	Voss	30 15
244	" 12	Lambson	103
250	" 30	Bremer	30 15
251	Dec. 3	Brandt	30 15
262	" 28	Bremer	30 30
263	" 29	Robinson	30 30

996

	1884.		
264	Jan'y 2	Brandt	30 30
265	Jan'y 3	Voss	30 45

About this time the interest of Voss was transferred to Davidson in No. 1609 S street.

Page.	*Date.*	*Item.*	*Amount.*
	1884.		
275	Jan'y 30	Bremer	30 45
276	Feb'y 2	Robinson	30 45
"	"	Brandt	30 45
282	Feb'y 18	Voss, Davidson	61 20

Page.	*Date.*	*Item.*	*Amount.*
	1884.		
287	M'ch 1	Reynolds (1603 S street)	$55 42
"	"	Reynolds (1802 16th St.)	51 75
"	"	Bremer, note No. 10	30 60
288	M'ch 3	Robinson, note No. 12	30 60
289	" 3	Brandt	30 60
294	" 13	Bremer	30 68
295	" 17	Lambson	153 40

Day Book No. 3.

2	M'ch 29	Bremer	30 75
"	"	Voss (Davidson)	30
3	Ap'l 1	Robinson	30 75
5	" 3	Brandt	30 60
15	" 29	Bremer, interest	63 90
16	May 1	Robinson	30
"	"	Robinson, interest	63
17	"	Brandt	30
997			
17	May 1	Brandt, interest	66 60
25	May 29	Davidson, notes	60
"	"	Interest	40
"	"	Premer	30 15
26	May 31	Robinson	30 15
29	June 3	Brandt	30 15
33	" 9	Bremer	30 20
35	" 16	Bremer	30 23
39	" 28	Voss	30
"	"	Interest	29 45
41	July 2	Robinson	30 30
42	" 2	Brandt	30 30
52	" 30	Robinson	30 45
"	"	Bremer	30 45
54	Aug. 2	Brandt	30 45
67	Ledger.		
Page.	Aug. 9	Raynolds, for 1603 S	74 56
"	"	Reynolds (for 1802 16 St.)	5 76
62	D. B. page, Aug. 21	Voss (Davidson)	30 75
64	Aug. 27	Robinson	30 60
64	"	Bremer	30 60
66	Sept. 2	Brandt	30 60
74	" 10	Bremer	30 68
80	Oct. 1	Robinson	30 75
67	" 1	Teynolds (1802 16th St.)	35 63
"	"	Reynolds, for 1803 S	38
84	Oct. 8	Lambson	112 10
87	" 13	Voss (Davidson)	61 80

Page.	Date.	Item.	Amount.
	1884.		
998			
89	Oct. 20	Brandt	$2,158 80
94	" 28	Robinson	30
"	"	Robinson, interest	57 60
95	Nov. 1	Bremer, interest	58 50
109	" 26	Bremer	30 15
110	" 30	Robinson	30 15
120 n.	Dec. 17	Voss (Davidson)	12
124	Dec. 29	Bremer	30 30
"	"	Robinson	30 30
128	Jan'y 6	Lambson	112 42
138	" 27	Voss (Davidson)	117 80
140	Feb'y 2	Bremer	30 45
146	" 13	Robinson	30 45
152	M'ch 2	Robinson	30 60
"	"	Bremer	30 60
Ledger 67.	M'ch 20	Reynolds, for 1603 S	58 47
"		Reynolds, for 1802 16 street	77 66
163	M'ch 23	Davidson, taxes refunded	16 30

These taxes were paid by Mr. Hooper with other taxes on this property, and at his request were collected back from Davidson, who should have paid them.

163	M'ch 23	Davidson	20
166	" 31	Bremer	30 75
167	Ap'l 1	Robinson	30 75
173	" 9	Lambson	25 50
175	" 14	Bremer	30 83
999			
183	Ap'l 30	Bremer	53 10
178	" 22	Insurance rebate	10
184	May 1	Robinson, interest	52 20
"	"	Lambson, interest	57 75
194	May 14	Robinson	30
"	"	Lambson, taxes refunded	16 80
195	May 16	Davidson	100
200	" 30	Bremer	30 15
202	June 1	Robinson	30 15
219	July 1	Bremer	60 60
220	July 2	Robinson	30 30
219	" 1	Lambson	25 21
236	" 31	Robinson	30 45
239	Aug. 5	Robinson	30 50
249	" 25	Bremer	30 60
254	Sept. 7	Bremer	673 97
Ledger 68.	Sept. 10	Reynolds, for 1802 16 street	23 72
"	"	Reynolds, for 1603 S	66 18

Page.	*Date.*	*Item.*	*Amount.*
263	Sept. 28	Bremer	$30 75
269	Oct. 7	Davidson	120
"	"	Interest	3
272	Oct. 12	Robinson	30 75
274	" 13	Davidson	30 75
281	" 28	Robinson	30
"	"	Robinson, interest	46 80
282	Nov. 2	Lambson, interest	28 80
284	" 4	Davidson, interest	58 40
288	" 11	Davidson	18
1000			
290	Nov. 14	Lambson	13 50
298	" 25	Robinson	30 15
299	" 27	Davidson	12 10
305	Dec. 4	Davidson	30 15
319	" 31	Bremer	30 30
	1886.		
323	Jan'y 6	Davidson	30 30
326	" 12	Robinson	30 30
338	" 22	Lambson	25 35
334	" 30	Lambson	15
"	"	Robinson	30 45
"	"	Bremer	30 45
335	Feb'y 1	Davidson	30 45
340	" 8	Mrs. Wright (deposit account of purchase, 2d & Mass. Ave.)	100
348	Feb'y 25	Robinson	30 60
349	" 27	Bremer	30 60
352	M'ch 4	Davidson	30 60
361	" 17	Minnie Wright (2d & Mass. Ave.)	600
369	Ap'l 1	Robinson	30 75
"	"	Bremer	30 75
373	Ap'l 5	Davidson	30 75
377	" 15	Wright	30 15
379	" 19	Fire-insurance rebate	3
383	Ap'l 30	Robinson	30
"	"	Robinson, interest	41 40
384	May 1	Bremer	30 90
"	"	Interest	24 30
1001			
385	May 1	Minnie Wright, interest	11 25
393	" 15	Davidson, interest	49 50
394	" 17	Wright	30 67
397	" 24	Davidson	301
401	June 1	Bremer	30 15
402	" 1	Robinson	30 15
411	" 11	Lambson, account interest	45

Page.	*Date.*	*Item.*	*Amount.*
	1886.		
420	July 1	Lambson, balance of interest	$27 30
411	June 11	Wright	30
418	" 30	Bremer	30 30
420	July 1	Robinson	30 30
435	" 31	Robinson	30 45
"	"	Lambson	60 89
452	Aug. 31	Robinson	30 60

Adjourned to Tuesday, Nov. 29th, 1886, and postponed to Friday, December 4th, at 7.30 p. m.

FRIDAY, *December 4th*, 1886—7.30 o'clock *a.* m.

Hearing pursuant to adjournment.

Present: Mr. Edwards, for the defendant-. Mr. Terry is also present.

Examination of Mr. SMITH continued.

By Mr. EDWARDS:

1002 Q. Did your firm charge commissions for the collections of these rents?

A. Yes, sir.

Q. Now, give the items appearing in your books for commissions charged for the collections of these rents.

Witness answers as follows:

1882	July	10	$2 65
"	"	31	3 98
"	Sept.	6	1 55
"	Oct.	5	4 65
"	Nov.	4	8
"	Dec.	9	4 87
1883	Jan'y	12	3 52
"	Feb'y	10	6 12
"	M'ch	12	6 75
"	Ap'l	9	8 70
"	May	9	6 52
"	June	6	11 85
"	July	7	4 20
"	Sept.	10	9 10
"	Oct.	9	6 05
"	Nov.	9	6 41
"	Dec.	15	4 85
1884	Jan'y	14	5 10
"	Feb'y	10	6 60
"	M'ch	8	6 48
"	Ap'l	10	5 93

1003

1884	May	5	$6 60
"	June	3	6 65
"	"	30	5 70
"	Aug.	12	4 50
"	Sept.	12	3 07
"	Oct.	13	6 33
"	Nov.	10	3 86
"	Dec.	8	10 20
1885	Jan'y	8	6 60
"	Feb'y	11	9 48
"	M'ch	11	6 00
"	Ap'l	9	7 43
"	May	11	7 95
"	June	10	9 15
"	July	9	4 53
"	Sept.	1	6 00
"	"	5	3 50
"	Oct.	10	5 10
"	Nov.	9	7 53
"	Dec.	5	8 40
1886	Jan'y	8	7 50
"	Feb'y	6	8 00
"	M'ch	10	7 13
"	Ap'l	9	6 50
"	May	6	8 17
"	June	7	6 50
"	July	7	5 15
"	Aug.	2	4 54
"	Sept.	7	6 90

1004 Q. Does these items of commission include the period up to September, 1886, connecting with the last statement, No. 18, referred to in the testimony?

A. Yes, sir.

Q. Other items of commissions appeared in those statements for the collections?

A. Yes, sir.

Q. My recollection is that your firm was paid a commission by the defendant Hooper on sales of this property made by you. Can you give the items of those commissions charged from your books? And, if so, state what they are.

A. As follows:

1882, March	31.	Commissions, 1607, '9, '11, '13 S St.		$360
" May	1.	1414 6th St.		105
" "	5.	1603 S St.		96
" June	1.	1601 S St.		225
" "	1.	1802 16th St.		105
		1605 S St.		90
1886, M'ch	17.	Cor. 2d & Mass. Ave.		96

This is all.

Q. Do you know the complainant in this suit personally, Robert A. Balloch?

A. I do not think that I do.

Q. Do you know him to see him?

1005* A. I do not think that I do.

Q. You know Mr. Seth A. Terry?

A. I do.

Q. How long have you known him?

A. Since 1880, I should judge.

Q. While your firm or since your firm has had charge of this property and managed it, as shown by the testimony, did any one representing himself to be Mr. R. A. Balloch or any one acting for him ever visit these houses or make any inquiries of your firm concerning them, to your knowledge?

A. Not to my knowledge.

Q. Did you ever see any person reputed to be Robert A. Balloch or Mr. Terry in any of these houses or about the premises during the period your firm has had their care?

A. No, sir.

Q. During this period has Mr. Terry been in the office of your firm?

A. Yes, sir.

Q. Did you have business transactions with him or any members of his family?

A. Yes, sir; up to June 4th, 1884.

Q. State the character of that transaction or business relations.

A. We represent the holder of the mortgage on the house
1006 owned by Mrs. Terry, and collected the rents up to the date just named, when the mortgage was paid and the house taken from our charge.

Q. Did your firm occupy that relation without Mr. Terry or Mrs. Terry's consent?

A. Yes, sir.

Adjourned, subject to notice.

THURSDAY, *December 9th*, 1886—7.30 o'clock p. m.

Hearing pursuant to notice.

Present: Mr. Moulton, for the complainant; Mr. Edwards, for the defendant-. Mr. Terry is also present.

Counsel for the defendant- announces that the direct examination of Mr. Smith is closed.

Cross-examination of Mr. SMITH.

By Mr. MOULTON:

Q. Mr. Smith, what is your age now?

A. I was 27 years last March.

Q. What is your business?

A. Real-estate broker.

Q. How long have you been engaged in that business?
A. About seven years.
Q. In what business were you engaged prior to that?
1007 A. In chandeliers, gas fixtures, and plumbing business.
Q. Business for yourself?
A. No; as a clerk.
Q. For whom?
A. For my father.
Q. Where?
A. 1014 Pennsylvania avenue, which business was turned over to Mr. Caverly. Afterwards I went into the real-estate business.
Q. What other kinds of business have you been engaged in, if any?
A. I have been twice in Government employ as the result of competitive examinations, and each time resigned after two or three months' trial.
Q. Then your employment outside of the Government has been that of a real-estate broker, in which you are now engaged, and prior to that in the gas-fixture business?
A. Yes, sir.
Q. Now, Mr. Smith, when did you say you commenced the completion of this Balloch property on 16th street?
A. It was in the fall or winter of '82, I think; '82 or '81. I can tell from looking at the books; I cannot from recollection.
1008 Q. At the time of the commencement of which you were little more than 21 years of age?
A. Yes, sir.
Q. Do you now remember the amount of money that was disbursed by your firm in the completion of these houses?
A. Approximately, $25,000.
Q. Was or was not that fund substantially disbursed by yourself?
A. It was.
Q. Prior to the attempt to complete these houses, what, if any, experience had you had as a builder?
A. None.
Q. This money was disbursed and these buildings completed largely under your supervision, I believe?
A. Under my supervision as to seeing that the money was paid to the right persons.
Q. Was not the work under your supervision?
A. I suppose it was in a general way.
Q. Have you not already said that you visited the work daily to see that it was properly constructed?
A. Yes, sir.
Q. Was that true?
1009 A. That was true, but the amount of time spent there daily did not average very much.
Q. This, then, was your first experience in building?
A. Yes, sir.
Q. Before commencing the improvement you saw the houses and saw their condition?

A. Yes, sir.

Q. Will you please state the condition of these houses and each of them at the time you took charge of them, commencing with the house located at the corner of 16th and S streets, known as 1601 16th street, stating the condition of that house at the time you commenced the completion of it as fully as you can?

A. The house on the corner of 16th and S streets, according to my recollection, was not commenced until, possibly, a few layers of the cellar, I think, was dug, and possibly a few layers of foundation.

Q. Have you any distinct recollection in relation to it, Mr. Smith?

A. Yes, sir.

Q. Will you please state what your distinct recollection is?

A. There was so little done, if any, that at the most a trifling
1010 expence was involved in changing the plans, so that it was different in plans from the rest of the row—a larger and better one.

Q. Did not the original plans contemplate a larger and better house than the rest of the row?

A. I have no recollection of the original plans as to that house, but my impression is that they contemplated an inferior house to the one finally erected.

Q. Do you remember seeing the original plans?

A. I remember seeing what I suppose were the original plans.

Q. Who had them?

A. The plans I refer to were in the office.

Q. Who brought them there?

A. I do not know.

Q. Your office?

A. Yes, sir.

Q. Now, sir, was not all of the walls of this building ready to receive the second-floor joist at the time that you took possession of the house?

A. Not to my recollection, sir.

Q. Now, *my* Smith, what was the condition of the house just named?

A. I do not remember.

Q. You have just testified about the house known as No. 1802 16th street.

1011 A. I do not remember that house particularly. My general recollection is that the houses at that end of the row were all of them only slightly, if any, above the foundation, walls gradually tapering upwards to the north end of the row, where there was possibly one or two under roof. I have no very distinct recollection of the particular house after the corner.

Q. How is it possible, Mr. Smith, that you visited this house daily to look after its progress and see that the disbursements were properly made, if you do not now remember anything definitely in relation to its condition at that time?

A. I do not know, sir.

Q. Do you not generally?

A. I do not, except as I have stated.

Q. Do you know whether any of the floors were in it?
A. I have no recollection now.
Q. Do you know how high the walls were up?
A. Only as I have stated.
Q. Do you know whether the roof was on or not?
A. No, sir; it was not on.
Q. Now, sir, house No. 1804 16th street, what was the condition of that house when you took it?
1012 A. I have stated all I recollect as to the condition of the row. None of the houses at that end were under roof, while possibly some at the upper end, 1820 and 1822, were intervening houses that I recollect very well came downwards.
Q. How many of those houses at this end were not under roof?
A. I could not state more definitely than I have.
Q. You do not know how many houses were under roof?
A. No, sir.
Q. Do you know a man by the name of Covington?
A. I do not recollect such a man at the present time.
Q. Did you ever hear of a man by the name of Covington in connection with these houses and the completion of any of them?
A. I do not recollect him; may be able to refresh my recollection, but at present I have not the remotest remembrance of him.
Q. I see the name of William H. Covington has been offered as a witness before the auditor in behalf of the defence in this case, who testified that he built four houses on 16th and S streets; can you with this description refresh your memory as to this man?
A. I cannot.
Q. You remember, Mr. Smith, how many of these houses on 16th street were completed at the time you took charge of the row?
1013 A. No, sir; none of them, as I recollect, were so entirely completed as to be occupied.
Q. Then your recollection is that none of them were occupied?
A. That is my recollection; I could probably refresh my memory by looking at the books to ascertain whether any rents were paid in originally.
Q. Can you tell us the condition of the S-street houses at the time you took possession of them?
A. My recollection is that the walls were up and they were under roof, certainly sheathed over. The roofs prior to that time had been used as a stand from which to witness base-ball games on the square opposite, much to their detriment, as I remember.
Q. Can you give more in detail the condition of these six S-street houses?
A. How many houses were there on S street?
Q. There were six.
A. Not including the corner house?
Q. Yes, sir. Were these S-street houses plastered?
A. I do not recollect.
Q. I am pursuing this line of examination, Mr. Smith, because your father, the other member of your firm, had little or nothing to do with the completion of these houses, that it was all left and con-

ducted by you, and for the purpose of ascertaining the con-
1014 dition of these houses, the amount of work that was done on them by you, I would like you to say as specifically as you can the condition of the S-street houses.

A. I might remember more from reflection, but as I did not know that I was going to be examined on this branch of the subject I had not thought about it, and I have not thought about the condition they were in since '81 or '82.

Q. I find, sir, from one of your statements that in November, 1881, you collected rent from house No. 1605 S street. What was the amount of the rent?

A. $10.

Q. Must not the houses have been complete at that time?

A. I am very sure that no house at that time was complete. I said awhile ago that I could refresh my memory from the books, because I had a recollection that there was some small amount collected from one or two of the houses shortly after we took possession of them.

Q. The item I refer to is November 3d, and then November 30; 1603 S street, $20.45, and 1605 16th street. Must not all of those houses at that time — been complete?

A. I have no recollection of the circumstances now. My recollection, the only recollection I have on the subject, was that there was some families or family occupied a portion of one or two of the northern houses on 16th street, and my recollection of that is
1015 very indistinct.

Q. Do you remember a contractor and builder by the name of Pumphrey?

A. I know such a contractor and builder.

Q. Do you know how many of these S-street houses he finished?

A. No, sir; I have no recollection of him in connection with these houses.

Q. Did you or did you not know that he had built two or three of these S-street houses before you took possession of the property, and perhaps four of the 16th-street houses?

A. I have no such recollection.

Q. Will you look at statement No. 5, in the upper portion of it marked by the auditor, and tell us in whose handwriting the upper portion of it is in?

A. It is in my handwriting, sir.

Q. Look there and see if you do not find these items of rent there; 1603–'5 S street N. W.

A. I do, sir.

Q. What date is it, sir?

A. November 30th, 1881.

Q. Now, can you refresh your memory by seeing this entry in your own handwriting, so as to enable you to testify whether or not all these houses were completed at that date or not?

1016 A. The entries are in my handwriting and are no doubt correct, but I have no recollection of them whatever.

Q. Does your want of recollection in this instance apply to the other entries there?

A. I could not say so without examining them.

Q. Will you look at them and see?

A. I see one credited for New York, draft to be used for taxes, $3,721.28. I recollect the fact that such a draft was sent on, but outside of this paper I have no recollection as to dates.

Q. Those other items, do you remember them?

A. I see another item, draft to be used on house, $2,500. I know there were several such drafts sent us.

Q. Laying aside those large drafts, have you any distinct recollection, after seeing this paper, of these other items—these $20 and $2.50 items?

A. No, sir; the items, being written in my handwriting, I am positive are correct, but otherwise I have no recollection of them.

Q. The mere fact of your seeing them there and being in your handwriting is what makes you positive that they are correct?

A. Yes, sir.

Q. Now, how is it possible that you could have rented these houses and obtained rent from them if they were not complete?

1017 A. I should judge from the amount of rent that the houses were not complete, as they were not such amounts as complete houses commanded.

Q. But sufficiently complete to be occupied?

A. My only recollection—my only information is the paper you showed me.

Q. How was this work in the completion of these houses conducted or arranged—by contract or how?

A. Some of it was done by contract and some by day's work.

Q. What effort was made, if any, to get the working materials as cheap as possible?

A. In nearly every instance bids were secured for work. If the bids appeared to be reasonable, the work was given to the lowest bidder, as I recollect, and where we had reason to suppose that the bids were too high, it was done by day's work, under the supervision of some foreman.

Q. Your father's name is Francis H. Smith?

A. Yes, sir.

Q. On page 121 of the testimony he testifies as follows: "We made every effort in our power by competative bids to obtain the materials and labor at the lowest practicable price." Is that correct?

Mr. EDWARDS: I object to that question.

Q. In the matter of brick-work, did you take bids for brick-work?

1018 A. As I recollect, the brick-work was all done by contract.

Q. Do you remember who competed in the bids?

A. I do not, sir.

Q. Do you remember any persons that did?

A. No, sir.

Q. Do you remember by whom the brick-work was done?
A. Not at this moment.
Q. Do you remember the amount of the brick-work that was done?
A. No, sir; I do not.
Q. It was all under your supervision?
A. Yes, sir.
Q. Do you remember the number of the brick used?
A. No, sir; I do not.
Q. Do you know from whom obtained?
A. I know that some brick was obtained from the Washington Brick Machine Company.
Q. Was that on a competative bid?
A. I do not recollect.
Q. Did the competative bids in relation to the brick-work include the mere laying of the brick, or did it include the brick also?
A. I have no recollection.
Q. Were those bids in writing or oral?
1019 A. Usually in writing, sometimes oral.
Q. Have you got them?
A. No, sir.
Q. Where are they?
A. I have no idea.
Q. They were left with you?
A. They were in our hands at one time, no doubt.
Q. You don't know what you did with them?
A. No, sir; I don't think they were forwarded to Massachusetts.
Q. Can you state the amount of money required to pay for the brick-work?
A. Not at this late date.
Q. You have your books with you, have you not?
A. I have.
Q. Can you state by reference to them?
A. I presume so.
Q. Now, Mr. Smith, how was the carpentering work done on these houses—by competative bidding, or how?
A. No, sir. I think the carpentering work was done mainly by day's work.
Q. Did you superintend it?
A. To the extent of visiting it daily.
Q. Did you know how many men were employed?
A. No recollection.
Q. Did you know any of the men that were employed?
1020 A. A great deal of the work was done under the supervision of a man named Gibbon or Gibbons.
Q. Do you know what amount of it was done under his supervision?
A. I do not.
Q. Under whose supervision was the rest of it done?
A. I have no recollection. I remember his name.
Q. How about the plastering?

A. Some of the plastering I recollect was done by a man named Dopont under contract.

Q. What houses?

A. He did the plastering, as I recollect, of the corner; outside of that I have no recollection.

Q. Who did the rest of the plastering?

A. I have no recollection.

Q. Did you or did you not undertake to get bids and complete the entire row?

A. I have no recollection.

Q. Do you remember when it was that you determined to take competative bids for the completion of any portion of the work?

A. No, sir.

Q. Do you remember how the money was due under any of these competative bids?

1021 A. My recollection is that if the amount of the contract was small or if it was one that could be completed within a week or two no money was paid until it was entirely completed; but if it was one that extended over a number of weeks some portion of it was paid out at intervals, usually Saturdays, during the continuance of the contract.

Q. You at that time had a general knowledge of all of these competative bids, I believe?

A. Yes, sir.

Q. Have you a sufficient recollection now to state what would have been the entire cost of the completion of these houses under competative bids?

A. No, sir. Of the $2,500 which I refer to earlier in the evening as the approximate amount disbursed by me quite an amount was paid for taxes and to take up liens already on the premises.

Q. Liens such as what—taxes?

A. There was taxes, and there was a mortgage and lien held by the estate.

Q. At the time you took these houses to complete them did you know or learn of existing contracts that Mr. Balloch had with the contractors to complete the houses?

A. I have no recollection.

1022 Q. As I understand you, Mr. Smith, you cannot now state from memory the cost of the completion of any one of these houses?

A. No, sir.

Q. Did you state that you remember one James H. Pumphrey, a contractor and builder?

A. Not in connection with these houses; I said that I knew Mr. Pumphrey.

Q. Did you not know that he worked on these houses?

A. Not that I recollect.

Q. Do you remember any bid made by him to your firm to build the floor foundation — S-street houses for $2,000 a house?

A. I have no recollection on the subject whatever.

Q. Have you any recollection on the subject of any bids in relation to the completion of the S-street houses?

A. No, sir.

Q. Your accounts as rendered show an item for lumber in October, November, December, January, and May, '81 and '82, for $3,147.84. Can you state of your own personal knowledge whether any of that lumber went into these houses?

A. I do not think that I could. I do not think I remember that particular lumber. I always required receipts for lumber from the foreman of carpenters or carpenter in charge to accompany
1023 bills from lumber men, and I think the duty was carefully performed by the foreman, because several times they—once or twice certainly—declined to receipt for the amount called for in the tickets sent with the lumber. The carpenter's figures, as I recollect, were each time sustained.

Q. Sustained how, sir?

A. His measurement of the lumber delivered was correct as against that sent with the tickets.

Q. Then you do now recollect of two or three instances where there was a controversy between your men and the lumber men and the statements of your men were correct?

A. Yes, sir.

Q. But in neither of those instances had you personal knowledge that the material went into the houses?

A. No, sir.

Q. I presume you cannot now, of your personal knowledge, select from this account any of those materials and testify now what went into these houses?

A. No, sir.

Q. Do you know a man by the name of Charles Gessford?

A. I do not recollect the name.

Q. Do you remember who did the carpenter's work on 1601 S street?

1024 A. I have no specific recollection.

Q. Do you now recollect what the carpenter's work on that house cost?

A. No, sir.

Q. Do you remember who did the plumbing on these houses?

A. Some of it was done by John Mitchell. Whether all was or not I do not recollect.

Q. Do you know a bell-hanger by the name — Kuehling?

A. I do.

Q. Did he do any of the work?

A. He did work there; yes, sir.

Q. Do you know who paid either of these men?

A. No, sir.

Q. Did you ever learn that there was at the time you took possession of these houses a contract for the plastering of Nos. 1800, '2, '4, '6 16th street for the price of $125 a house?

A. I have no recollection of such a contract.

Q. Do you remember or know whether it cost in your arrangement over $300 a house for plastering?

A. I have no recollection.

Q. Do you remember who did the stone-work on these houses?

A. What kind of stone-work?

1025 Q. Whatever stone-work was there—steps, window sills, door sills, &c.

A. No, sir.

Q. Neither do you remember the amount paid for it?

A. No, sir.

Q. What iron-work was there to these houses, Mr. Smith?

A. The front steps and railings and I think gratings and some of the cellar windows. I am not positive as to that.

Q. From whom was this iron-work obtained?

A. I do not recollect.

Q. Do you remember the price paid for it?

A. No, sir.

Q. Do you remember whether or not the cellars or basements of those houses were damp?

A. I have no recollection.

Q. What have they under them—a cellar or basement?

A. A cellar under the whole house, concreted, for the 16th-street houses, while in the S-street houses the basement is fitted up for living rooms.

Q. I see in your account items for papering the house. Is that custimary when you complete houses, to paper them?

A. It depends upon the condition of the walls, if new houses.

Q. It is not often done?

1026 A. No, sir.

Q. I also see in your account such items as gas fixtures; are they usually put in in completing houses?

A. They are in putting them into a rentable condition.

Q. But are not in the ordinary construction of them?

A. I am not a builder and not competent on that subject.

Q. Then, Mr. Smith, to sum up your testimony, as I understand you, you cannot now testify from memory as to the cost of the completion of any one of these houses?

A. No, sir.

Q. Nor can you give the name of any competative bidders in the completion of them?

A. Oh, yes; I remember, for instance, that a man named Qualls was a very persistent bidder for painting.

Q. Did he have a painting contract for all these houses, sir?

A. I know his name appears in my accounts, and I presume he did. I have no recollection.

Q. Is not Mr. Qualls a grader instead of a painter?

A. I have no recollection.

1027 Q. Then you do no- recollect that he was a bidder for the painting?

A. I recollect that he was a very persistant bidder, backing up his bids by verbal statements that sometimes created a great deal of

merriment. He may have bid for other things. I am not positive as to that.

Q. Can you mention others?

A. I probably could upon reflection.

Q. But you do not think of any now?

A. No, sir.

Q. Who disbursed this money, Mr. Smith?

A. I did.

Q. Personally?

A. Yes, sir.

Q. What connection did E. J. Sweet have with it?

A. He did a great deal of running around for me in drumming up bids and in hunting up information and in superintending the work.

Q. What did he superintend, sir?

A. He superintended to the extent of going there daily, as I did; oftener, I guess, sometimes.

Q. What is his business?

A. Real-estate broker, I understand.

Q. Did you mean that he accompanied you to inspect this work?

1028 A. No, sir; he may have accompanied me in some specific instance.

Q. You had the general charge of the work?

A. Yes, sir.

Q. You directed the work?

A. Yes, sir.

Q. You paid for what was done?

A. Yes, sir.

Q. You paid for what materials were furnished?

A. Yes, sir.

Q. In looking at this voucher that you furnished and which has been marked by the auditor No. 18, I find a great majority are marked "O K, E. J. Sweet." Why were they so marked by Mr. Sweet?

A. Because in such instances he was the one who, when the work was announced as complete, was sent out to verify the fact.

Q. Then you based your payment on the strength of his report and indorsement?

A. Backed by my previous knowledge as well as his.

Q. If you had previous knowledge of your own why did he endorse the bill "O K" before you paid it? What was the necessity for it?

1029 A. There had been complaint on the part of the company that before we took charge of the houses work had sometimes been paid for before it was done, and, as I now recollect, I took extraordinary precaution to satisfy myself that the same should not occur while I was in charge. As a rule, disbursements were made on Saturdays—were made late in the afternoon. I almost invariably—I presume always—inspected the work Saturday morning, and knew in a general way about where it was. I had

charge at the same time of a very considerable business of rents and insurance, and Saturdays were always a busy day. I always had Mr. Sweet or some one else in our employ go to these houses late in the afternoon to see what work had been conducted since morning and to see in what condition things were, and on such occasions, although I may have been there only a few hours before he was, still I had him put a check-mark on the bill presented.

Q. Is it not true, Mr. Smith, that in many of these cases marked "O K, E. J. Sweet," that the money was delivered to Mr. Sweet and disbursed by him?

A. The money, unless an amount less than $5 and excepting money to pay off men employed by the day, was always
1030 paid by check drawn to the order of the person to whom the bill was due, and, to the best of my recollection, almost invariably in the office, over the counter, receipt being taken at the same time.

Q. I suppose all day-workers was always paid on the buildings?

A. I have no recollection; where work was being done by contract the amount was paid by check to the contractor, and as to his method of settling with the men I do not know.

Q. I hold in my hands a series of these statements; for instance, J. D. Hatton, Silvester B. Morton, $15; Henry Taylor, $24; B. Scribner, per Gibbons, $27. Items of that kind, would they or would they not be paid by check?

A. They would be paid by check.

Q. In this same package there is one item which seems to be a receipt for $211.13, carpenter's pay-roll; was that paid by check or how?

A. No, sir; the money in such a case would be drawn from the bank and taken there and the money paid to the men.

Q. That is independent in relation to day-work pay-rolls for work done on the houses?

A. Yes, sir.

1031 Q. In any of those instances did you take the money up to pay the men?

A. Yes, sir; not usually, though.

Q. Did Mr. Sweet do that sometimes?

A. Sometimes; in such a case the money was paid in the presence of the persons taking the money up and the foreman's signature or certificate placed to the pay-roll.

Q. What do you mean by the initials of E. K. Sweet, O K?

A. If the foreman was Mr. Gibbons, for instance, he would sign the pay-roll simply a- a check between him and myself in case of a workman's turning up later and claiming that he did not get his money; it was the foreman's duty to identify the man.

Adjourned, subject to notice.

MONDAY, *December 20th*, 1886—2 o'clock p. m.

Hearing pursuant to notice.

Mr. Moulton, for the complainant; Mr. Edwards, for the defendants; Mr. Terry also is present.

1032 Mr. Edwards, in behalf of the defendants, offers in evidence the following deeds and deeds of trust recorded in the land records of this District:

The original deed from John G. Adams and wife to the complainant, dated November 1, 1878, conveying all the property in square 177 involved in this suit, recorded in Liber 898, folio 419.

Deed of trust from the complainant to Charles B. Swaze an- J. G. Adams, conveying the same lots in square 177, dated November 1st, 1878, to secure J. G. Adams $14,200, purchase-money, in seven notes, namely, $500 in 30 days, $2,000 in 90 days, $2,000 in six months, $2,000 in one year, $2,000 in 2 years, $2,000 in 3 years, and $3,700 in 4 years, bearing 6% interest from date, recorded in Liber 898, folio 420.

Deed of trust from the complainant to Joseph Rosenbaum, dated December 14, 1878, on south 7 ft. 6 in. of sub 48 and north 7 ft. of sub 49, in said square 177, to secure complainant's note to order of W. B. Moses for $1,000 at 2 months, with interest from date till paid, at 10%, recorded in Liber 902, folio 398.

1033 Deed of trust from the complainant to A. L. Barbour on south 11 ft. 6 in. of sub 49 and north 3 ft. of sub 50, in square 177, to secure complainant's note to order of John H. Riggles of even date for $1,200 at 3 months, interest, 10%, till paid, dated May 12th, 1879, recorded in Liber 911, folio 295.

Eight deeds of trust from the complainant to the defendant Hooper, dated June 14th, 1879, on lots of subdivision by the complainant, Nos. 92 to 99, both inclusive, in square 177, to secure 8 notes of even date for $2,000 each to the defendant Massachusetts Mutual Life Insurance Company, all payable 5 years from date, with interest at 8% till paid, payable semi-annually, on May 1 and November 1, recorded in Liber 916, folios 112 to 129.

Six deeds of trust from the complainant to the defendant Hooper, dated October 11, 1879, on lots 18 to 23, both inclusive, S-street front of the square 177, to secure 6 promissory notes to the order of the defendant company for $1,700 each of even date, payable in three years, with interest at 8% till paid, payable semi-annually, May 1st and Nov. 1st, recorded in Liber 925, folios 257 to 268.

1034 Deed of trust from the complainant to George H. La Fetra, dated October 24th, 1879, on sublots 96 to secure complainant's note to order of William Mayse for $400 of even date, payable —, with interest at —% per annum till paid, recorded in Liber 927, folio 177.

Deed of trust from the complainant to Burr R. Tracy and James P. Ryan on sublot 99, dated October 28, 1879, to secure complainant's note of even date to order of Charles Pomroy for $300, at 10% interest till paid, recorded in Liber 923, folio 319.

Deed of trust from the complainant to George W. Balloch on

sublots 89, 90, & 91, dated November 18, 1879, to secure complainant's note to order of defendant Hooper for $225 at one month, interest, payable after maturity, at 6%, recorded in Liber 930, folio 62.

Deed of trust from the complainant to George W. Balloch, dated December 17, 1879, on sublots 95, 96, and 97 to secure complainant's note of even date to order of William B. Hooper for $1,500, payable in 2 months, at 8% interest till paid, recorded in Liber 929, folio 320.

Four deeds of trust from the complainant to the defendant Hooper on sublots 89, 90, 91, and 100, all dated February 17,
1035 1880, to secure 3 notes of the complainant for $2,000 each and one note for $3,000, all bearing even date, payable to the order of the defendant company in one year after date, with interest till paid, payable semi-annually; each of the notes for $2,000 are secured on the 1st 3 named lots and the $3,000 note on lot 100, recorded in Liber 937, folios 99 to 105.

Deed of trust from the complainant to the defendant Hooper and A. M. Bingham on sublot 89, dated February 26, 1880, to secure complainant's note to order of J. D. Kitch for $750 of even date, payable in one year, interest at 6%, recorded in Liber 937, folio 110.

Deed of trust from the complainant to the defendant Hooper, dated June 1st, 1879, on sublot 15, square 722, to secure the defendant company the complainant's note for $1,800 of even date, that trust payable in three years, with interest at 8 per cent., payable semi-annually, on May 1st and Nov. 1st, recorded in Liber 925, folio 280.

Deed of trust from same to same of same date on sublot 14, same square, to secure the defendant company another note of the complainant to its order for $2,760, payable in three years, interest semi-annually, on May 1st and Nov. 1st, recorded in Liber 925, folio 282.

1036 Deed of trust from the complainant to said La Fetra on sublot 15, square 722, dated November 5th, 1879, to secure complainant's note for $400 to order of William Mayse of even date, 3 months, bearing 10 % interest till paid, recorded in Liber 923, folio, 461.

Also the record containing notice of the following liens, namely: No. 756, lien docket No. 5, Jacob D. Kitch to the order of Barbour and Hamilton against the complainant on sublots 88 to 100, both inclusive, fronting on 16 St. *street*, and 18 to 23, both inclusive, fronting on S street, in square 177, for $1,064, filed and recorded December 23d, 1879.

Also No. 765 of the same docket, by Charles Gessford against the complainant on the same property as last aforesaid for the sum of $307.60, filed and recorded Jan'y 31, 1880.

Also No. 775, by Charles Cotton against the complainant and the defendant Hooper on lots 87 to 100, both inclusive, of said square 177, for 69.90, filed and recorded March 10th, 1880.

Also No. 776, by Joseph H. Pumphrey against the same parties as last aforesaid on the lots 18 to 23, in said square 177, for the sum

of $878, filed and recorded March 18, 1880; also No. 778, by
1037 William M. Clayton against the same parties on the lots 19 to 20, in said square 177, for the sum of $40, filed and recorded April 10th, 1880.

Also judgment recorded against the complainant by Duncanson & Co. February 5th, 1880, in cause No. 21577, law, for $100, with interest from —, costs.

The defendants' solicitors also offer in evidence record in the causes Nos. 13296 and 13418, criminal docket 13 of this court, in the case of The United States against Seth A. Terry, and to which the solicitors for the complainant objects, and which objection the auditor sustains.

The defence announces their evidence as closed.

Further hearing adjourned to Monday, 27th instant, 2 o'clock p. m.

WEDNESDAY, *December 29th*, 1886—11 o'clock a. m.

Hearing pursuant to adjournment.

Present: Mr. Moulton, for the complainant; Mr. Edwards, for the defendant-.

1038 It is admitted by defendants' solicitors that the deed of trust from the complainant to the defendant Hooper and Bingham on the sublot 89, square 177, of February 26, 1880, to secure complainant's note to the order of Kitch for $750, was executed in part settlement of the lien filed by Kitch and numbered 759 for $1,064, before mentioned, and that the defendant Hooper on the date of the transfer by the complainant to him of the property as mentioned in the proceedings paid to Kitch on the date of transfer the difference between the sum of $750, the amount of said lien.

It is admitted by the complainant's solicitors that the monies claimed to be due on account of the liens Nos. 775, 776, and 778 were for labor and materials claimed to have been done and furnished prior to the transfer by the complainant to the defendant Hooper of February 25th, 1880.

Adjourned to Monday, January 3d, at 11 o'clock a. m.

1039 TUESDAY, *January 4th*, 1887—11 o'clock a. m.

Hearing pursuant to adjournment.

Present: Mr. Moulton, for the complainant; Mr. Edwards, for the defendant-. Mr. Terry is present.

Counsel for the complainant announces that they have no further testimony to offer.

It is stipulated that the statement from the ass't assessor of the District and of the chief of the special assessment division and the clerk in the water office of the taxes and assessments due and unpaid upon this property at the date of conveyance from the complainant to Hooper may be filed as showing the amount of such

taxes and assessments so due and unpaid and which were afterwards paid by the defendants.

It is further stipulated and admitted by the complainant that the defendant Hooper has paid the following amounts on account of the several liens upon the property mentioned at the time it was conveyed to him by the complainant, namely:

To Wm. B. Moses	$1,122	65
1040 To Eastwood on the note he held, payable to the order of John Riggles	1,209	
To William Mayse	400	
" Charles Pomeroy	379	35
" Gessford, on his mechanics' lien	150	
" Pumphrey, " "	200	80
" Cotton, " "	35	
" J. D. Kitch, ditto	254	50

For interest accruing on all of the deeds of trust given by the complainant existing on the property at the time of said deed as follows, and paid since the transfer, August 14th, 1880:

	$808	
	383	20
November 29, Adams' interest	104	35
December 3	408	
December 6th	120	
December 21, 1881	1,820	40

By the defendant company to Adams on the trust given by the complainant to secure the original purchase-money, November 3, 1881:

Principal and interest	1,566	69
November 3d, 1881, interest to that date on $3,600 note	111	
Also $3,700 note and interest	3,923	85

These admissions are made for the purpose of the auditor carrying out the 13th paragraph of the order of reference, which
1041 directs him to state and report all payments on account of the liens or incumbrances mentioned in this paragraph made by the defendant- or either of them subsequent to the conveyance by the complainant to Hooper, and is not understood *to* precluding the defendants from showing by the testimony other payments made on account of the liens and incumbrances mentioned in the testimony on the 6th-street property and the lot 14, in square 722, have been paid in no other manner than through the sales thereof since the conveyance and such rents as may have been collected from these properties since the conveyance to Hooper.

Adjourned, subject to agreement.

THURSDAY, *January 13th*, 1887—11 o'clock a. m.

Hearing pursuant to agreement.

Present: Mr. Moulton, for the complainant; Mr. Edwards, for the defendant-.

1042 The defendants file the certificates of William Morgan, assistant assessor, or J. Will Cross, clerk water office, and William Oscar Roome, chief of special assessment division, showing taxes and assessments due and unpaid on the property mentioned in the deed from the complainant to the defendant Hooper on February 25th, 1880, with interest and penalties included to that time.

It is further stipulated and agreed that the defendant Hooper paid to Hayward and Hutchinson subsequent to February 25th, 1880, the sum of $450 for work done and material provided by that firm in the construction of the 16th & S street houses prior to that date to be due at that time from the complaimant Balloch to that firm.

Also that the aggregate items of payment claimed to have been made by the defendant Hooper to that firm subsequent to February 25th, 1880, the items of which appear in Defendants' Exhibit No. 25, deposition taken before the examiner, is to be reduced $307.47.

Adjourned to Monday, 24th instant, at 2 o'clock, for argument.

1043 JAN'Y 24TH, 1887.

Hearing pursuant to adjournment.

Adjourned to Monday, 31st inst., at 2 o'clock p. m.

JAN'Y 31, 1887.

Hearing pursuant to adjournment.

Present: Mr. Moulton, for complainant; Mr. Edwards, for the defendants.

The argument of the matters in reference was begun by Mr. Moulton, who also filed a statement of the several accounts.

Adjourned to Thursday, Feb'y 3d, 1887, 2 o'clock.

FEBRUARY 3, 1887.

Hearing pursuant to adjournment.

Present: Same counsel.

Argument continued, and adjourned to Tuesday, March 1, 1887, at 2 o'clock.

MARCH 1, 1887.

Hearing pursuant to adjournment.

Present: Same counsel.

Mr. Edwards submits his argument for the defendants.

Adjourned to Saturday, 19th inst., at 2 o'clock.

1044 MARCH 19, 1887.

Hearing pursuant to adjournment.

Present: Gen. Henkle, for complainant; Mr. Edwards, for defendants.

General Henkle filed a brief and statement, and the cause was submitted under the order of reference.

1045 T. W. Smith.

1879.				
Sept.	10		425	
Nov.	19		25	
			450	
		Deductions for 2 houses	90	
				360

Pumphrey.

1879.				
Aug.	30		5	
Sept.	6		20	
"	13		12	
"	17		3	
"	20		13	
Oct.	1		1	
	2		4	
	4		3	
	9		5	
	11		10	
	15		6	
	18		7	40
	20		6	10
	22		15	
	25		15	
Nov.	1		15	
	8		25	
	15		30	
	26		1	
	29		2	
Dec.	6		10	
	8		4	
	13		22	
1046				
Dec.	13		4	
	20		25	
	20		5	
	20		3	75
	27		10	
Jan'y	3		3	
	10		13	
	17		13	
	24		10	
				321 25

Burke.

Aug.	30	4	
Sept.	6	8	
	10	60	

13	3		
20	2		
	77		
Deductions for 2 houses	15	26	
			61 74

Geo. O. Stevens.

1879.				
Sept. 10	200			
July 10	75	39		
Sept. 27	100			
Oct. 7	206	61		
	582			
Deductions for 2 h.	100			
				482

Childs & Co.

Sept. 12				67 67

Washington Brick Ma. Co.

1878.				
Nov. 4	100			
9	100			
13	100			
1047				
Nov. 14	100			
1879.				
M'ch 1	100			
8	80			
May 2	20			
3	20			
June 7	161	35		
	73	60		
Indebtedness assumed by Eastwood	1,100			
9	200			
July 10	400			
	82	50		
30	300			
Dec. 13	1,100			
	4,037	45		
Ded. for two houses	550			
				3,487 45

C. Brent, excavating.

1878.				
Nov. 2	20			
6	1			

	9		85	
	14		10	
	16		60	
	16		2	
	27		75	
	30		10	
Dec.	7		20	
			3	
Jan'y	4			85
"	15		1	
"	16		3	
1048				
1879.				
Jan'y	18			50
	22		2	90
				75
Feb.	1			50
	1		1	50
	7			75
	12			50
	15		2	10
	17		2	
	24			25
M'ch	1		5	40
	4			25
	5		1	90
	8		1	
			3	
			1	25
	18			25
Ap'l	3			25
			32	
	5			25
	19		2	50
	30		5	
May	5		1	32
	12		2	75
	16			60
	29		1	
June	7		2	
	14			50
	17			21
			289	78
	Ded. for two houses		44	65
				$245 13

1049 Albert McIntosh.

1879.				
June	18		1	
	20			15

	21	15		
		2	40	
	28	35		
July	1	2		
				55 55

Paints.

1879.

Dec.	10	1		
	15	5		
	16	1		
	18	1		
	24	1		
1880.				
Jan'y	1	2		
	9	10		
		21		
	Ded. for 2 houses	11		
				10

James Wormley.

1879.

July	10	50		
	26	50		
Aug.	2	3	53	
	9	75		
	6	1	25	

Chas. McRoberts.

June	28	30		
	30	10		
July	1	12	80	
	3	30		
	10	10		
1050				
July	10	8		
		8		
		13	60	
	12	50		
		10	80	
	15	20		
	19	35		
		7	20	
	23	35		
	26	15		
	30	3	12	
Aug.	2	3	53	
	5	10		
	9	17	40	
	16	3		

25	Wormley, 303.53 / McRoberts, 349.14		14 69	
			650 67	
	Ded. for 4 foundations		280	
				370 67

Frank Sterling.

1878.				
Nov.	6		8	
	12		9	
	13		9	
	13		1	
	6		3	
	16		10	
	16		175	
	15		9	
	16		2	
	18		37	
1051				
Nov.	19		9	
	20		9	
	23		65	
	23		3	
			9	
	29		9	
	30		9	
			150	
Dec.	2		36	50
	3		9	
	5		3	55
	5		2	83
	7		49	
	10		40	
	13		9	
	12		2	
	14		24	
			70	
			20	
	16		9	
	18		9	
	20		9	
	21		2	
			110	
			9	
Dec.	21			50
	24		2	
			7	
1052				
Dec.	24		3	10

	26	1	
	28	2	75
		3	
	31	5	
		9	
1879.			
Jan'y	1	1	50
	2	22	
	4	8	
		1	15
	9	40	
	11	2	
			75
	14	7	20
	16	3	
		1	
	18	3	
		4	
	24	1	
		5	
		4	
	25	21	
		1	
			50
		12	
	31	2	
Feb'y	1	25	
	11	13	
1053			
Feb'y	11	20	
	15		93
	15	12	
	15	6	
	15	3	
	17	19	
		3	
	19	7	
		3	
		4	
	22	2	50
	28	1	25
M'ch	1	3	
	3	5	
	13	10	
	15	15	
	21		75
	22	25	
	24	10	
	27	8	
	28	8	

	29		100	
	31		35	
Ap'l	2		29	42
	2		4	50
	4		2	
	5		5	
	10		6	
1054				
Ap'l	12		20	
			5	
	15		4	25
	16		1	
	19		56	84
	21		8	
			8	42
			1	44
	23		8	
	26		159	51
	30		1	28
			10	
			8	
			8	20
May	3		65	
	10		1	25
			8	
			15	
			18	75
	12		15	
			7	50
	17		53	34
	29		1	25
	31		2	
June	7		1	50
	13		2	
	14		1	50
			4	
1055				
June	21		2	50
	28		5	
July	19		5	
Aug.	5		11	44
			40	
Oct.	28		23	43
Nov.	7		6	
			2,089	08
	Ded. for 2 houses		418	
				1,671 08

Mantles.

Oct.	24		90	
		Ded. for 2 houses	60	
				30

Watson.

1879.				
Dec.	8		94 50	
	13		15	
	16		94 50	
	20		26	
			4	
	27		5 50	
				243 50

Cotton.

Oct.	18		2	
			1 50	
	22		3	
	24		3	
	25		8	
Nov.	1		15	
	8		50	
	11		2 25	
	15		14	
1056				
Nov.	18		1	
	22		11	
	22		3	
	29		12	
			3	
Dec.	6		9	
	11		1	
	13		4	
	20		7	
	24		2	
	27		2	
	31		1 50	
Jan'y	1		3	
	3		1 75	
			110 50	
		Ded. for 2 h.	20	
				90 50

Grinnell *et al.*

1879.				
Oct.	18		27	
			1 60	
			1 50	

	25	43	09	
	30	8		
		3		
Nov.	1	46	31	
	3	9	60	
	8	25		
		2	40	
	18	3		
	22	3		
	27	1		
Dec.	6	6	50	
	4	3	92	
	15	2		
	15	2		
	24	3		
	24	1		
	31		50	
1880.				
Jan'y	3	1	50	
	3	2		
				196 92

1057 J. G. Davis.

1879.				
Oct.	18	12		
	25	28		
Nov.	3	5		
	8	15		
	22	5		
Dec.	4	3		
	6	3		
	13	1		
	24	1		
	31		60	
1880.				
Jan'y	3	1	35	
	10	3		
				77 95

Plumley.

1878.				
Nov.	13	20		
	12		20	
	21	30		
Dec.	4	35		
	14	50		
	18	50		
1879.				
Feb'y	28	20		
M'ch	22	25		
June	7	10		

	14	5		
Aug.	16	5		
Nov.	15	10		
		260	20	
	Ded. for 2 houses	50		
				210 20

Jake Mickols.

1879.				
Oct.	11	5		
	13	6		
	11	7		
	25	7		
Nov.	15	1		
				26

Chas. Gessford.

1878.				
Nov.	26	10		
	30	5		
Dec.	7	17		
	14	5		
	21	4		
	27	1	60	
1879.				
Jan'y	4	1		
	16	1		
	22	1	10	
	25	5		
	29	2		
Feb'y	13	5		
M'ch	8		50	
		25		
	15	10		
	18	25		
	28	20		

1058

1879.				
M'ch	29	3		
Ap'l	5	5		
	12	8		
	19	1	50	
	23	5		
	26	20		
	30	10		
May	3	17	25	
		14	39	
May	3	65		
		3		
	7	7		

	10	15	
	14	26	50
	17	35	
	19	1	
	21	2	
	23	1	
	24	7	
		20	
	29	20	
		9	25
	31	11	50
June	6	3	
	7	50	
		13	20
		6	
	11	11	50
	14	70	
	18	7	
	21	40	
	23	8	
	24	8	
	25	3	
		11	20
		8	
	27	2	20
		65	
		3	50
July	1	6	75
	2	10	
	2	95	
	9	10	
		74	77
		8	
	10	1	20
	12	60	
		6	40
	14	8	
	15	1	
		2	
	17	4	
		1	
		8	
1059			
July	19	50	
		8	10
		4	50
	22	8	
	26	25	
Aug.	5	20	
	9	50	

	14		26	50
	16		50	
			8	
	23		15	
			2	
	26		2	
			37	79
	30		10	
Sept.	6		3	
	8		7	50
	13		11	
	15		10	
	20		10	
Oct.	2		2	
	4		10	
	7		5	
	10		5	
	11		15	
	14		2	20
	15		5	
	18		35	
	20		12	
	22		8	25
	25		15	
	29		20	
Nov.	3		12	93
	4		20	
	8		25	
	11		2	50
	14		7	25
	15		34	50
	22		4	
	24		1	50
	24		25	
	29		1	
Dec.	3		5	
	4		8	50
	6		1	30
	9		1	50
	13		2	
	17		1	75
	24		11	
	27		2	
	31		4	
1880.				
Jan'y	3		3	50
			1	
	9		20	
			$1,739	38
	Ded. for 2 h.		350	
				1,389 38

1060 W. H. Mitchell.

1879.			
M'ch	22	56	33
Ap'l	3		60
	7	6	
	12	3	45
	15	3	50
	19	8	50
	22	7	
		17	64
	23	6	
	26	25	
May	3	10	
		6	
			30
	10	5	
	12	5	
	17	2	
		20	
	20	2	
	31	11	50
		5	
		4	
June	2	2	
	7	8	
	9		75
	10	21	28
	24		75
		27	57
	28	16	
		5	
July	3		30
	5	12	
	9		
	9		
	12	15	
	14	1	
	17	3	
	19	20	
		10	
	26	13	
Aug.	7	8	
	9	10	
		10	
		14	25
		18	50
	12		80
	14	51	
	16	10	
		10	

			8	
	25		14	
			5	
			78	94
	29			1
1061				
Aug.	30		2	
			4	
Sept.	4		3	
	6		9	
			12	50
			8	
	13		12	
			21	
			2	25
	15		2	
	16		6	
	20		4	
	24		11	03
			696	74
		Ded. for 2 h	140	
				556 74

Sundry acs.

1878.				
Nov.	4			50
	6		1	
	20		1	50
	23		3	
	26		2	50
			5	
			3	
	30		5	
			3	
Dec.	2		2	
	5		1	50
	7		5	
	10		5	
			3	
			3	
			2	
	18		7	
	20		1	80
	21		1	25
	24		5	
	31		7	
				50
1879.				
Jan'y	4			75

	9	5	
	15	10	
	23	5	
	25		25
			50
	30	5	
Feb'y	1	2	
	1		50
	5	5	
	11	3	
	13	2	
	15	4	
	19	2	
	21	3	70
	24	1	50

1062

1879.

Feb'y	28	10	
M'ch	8	6	
	14	1	
	15	3	
	18	5	
	21	2	
		2	
	28	8	
Ap'l	3	2	
	7	1	50
	9	1	20
	9	5	
	12	4	33
	12	1	50
	17	2	50
	7	2	
	8	5	
	9	3	
	17	4	
	22	5	
	30	3	
May	2	7	
	3	1	50
	6	1	50
	8	1	
	10	1	
	12	2	
	16	1	25
	17	1	
		1	50
			96
	19		60
	19	2	

	21	1	
		1	
	23		25
	24	2	
		3	
	29	5	
	31	6	
June	7	6	
	10	14	
	7	10	
	13	1	
	17	5	
	20		10
	24	1	75
	25	5	
July	1	2	
	3	3	
		3	50
	9	5	
	12	3	50
	15	4	
	19	5	
1063			
July	19	5	
	22	2	
	23	1	
	29	5	
	26	13	
Aug.	2	3	54
	9	5	
	12	12	
	16	1	
	16	5	
	20	3	
	23	10	
Sept.	6	5	
	6	2	50
	17	1	
	25	10	
	30	9	
Oct.	2	1	
	7	5	
	11	1	50
		15	
	22	40	
			50
		15	
		2	
		3	
	24		34

	25		4	
			1 30	
	27		1	
	28		11 93	
			15	
			12 25	
			25	
			2 50	
			1 50	
			1 24	
	30		2	
			1	
			29	
			2 70	
Nov.	11		9	
	14		3 12	
	15		3	
	29		2 50	
Dec.	6		10	
			4	
	24		5	
	20		1	
1880.				
Jan'y	7		1 75	
1879.				
Dec.	17		5	
	24		11 25	
Jan'y	10		80	
			½ $701 86	
			350 93	
	Ded. for 2 h.		25	
				325 93

1064 Lumber.

Nov.	8		7	
	15		12 75	
	23		15	
	26		100	
	27		22 89	
	30		30	
Dec.	4		15	
	5		100	
	18		130	
Jan'y	16		45	
M'ch	18		9 60	
	26		53 33	
	29		19 80	
Ap'l	22		45	
May	3		2 40	

	3		8 10	
	3		16 38	
	3		153 81	
June	10		75	
	11		50 25	
	11		574 05	
	14		25	
	17		3	
	21		20	
	21		4	
July	5		5	
	9		168 06	
	29		300	
Aug.	9		25	
	26		30 40	
	26		179 71	
	26		64 47	
	29		20	
	30		90 85	
Sept.	2		440	
	6		1	
	8		1 35	
Oct.	14		2 80	
	22		15	
	22		5	
	25		4	
	27		120	
Nov.	3		279 96	
	3		111 83	
	5		275	
	8		1	
	11		75	
	29		10	
Dec.	1		3	
	9		132 74	
	17		3 30	
	17		1	
	20		10 50	
			3,913 33	
		Ded. for 2 houses	400	
				$3,513 33

1065 Schooler & Johnson.

Dec.	10		1	
	13		11	
	15		4	
	20		5	
				21

Carpenter work.

1878.				
Nov.	9		4	
	23		5	
	26		5	
	30		5	
Dec.	7		13	
	14		5	
	24		3	
Jan'y	11		1	
	20		2	
	22		6	
	28		1	
Feb'y	22		1	
M'ch	8		75	
				51 75

Peyton Scrivener.

1879.				
July	26		1 70	
	30		1 50	
Aug.	5		10	
	16		5	
	23		50	
	29		5	
	30		30	
Sept.	6		1	
	10		1	
	13		40	
			25	
	17		1	
	20		25	
	25		1	
	27		25	
Oct.	1		10	
	2		9 37	
	4		60	
			20	
			25	
	7		10 75	
			8 75	
			3	
			3	
	10		57 40	
			35	
	11		5	
			1	
	14		6 50	
	15		8	
	18		50	
			5	

	15		3	
	22		20	
	22		3 50	
1066				
Oct.	24		18	
	25		10	
	31		10	
			10	
Nov.	4		19 75	
			7 87	
			15 75	
	7		1	
	8		2 50	
			1 50	
			4	
			3 50	
	27		1 50	
			2 50	
Dec.	6		5	
				$619 94

Hardware.

1878.				
Nov.	20		2 25	
Dec.	4		50	
"	20		70	
1879.				
Jan'y	9		25	
	15		1 25	
	15		2 75	
	21		60	
Ap'l	28		50	
"	28		2 75	
May	5		2 25	
	22		2 25	
	24		5	
	29		2 50	
			4 75	
June	7		5	
	13		2 25	
	14		2 50	
			25	
	16		2 50	
	21		7 75	
	23		4 75	
	24		60	
July	24		1 25	
	26		1	
	28		1 50	
Aug.	7		5	

	25		5	70
Sept.	5		3	
	17		3	50
Oct.	11		2	
	13		2	25
			15	
	15		50	
	18		1	86
	20		5	
	22		1	25
			2	
			27	07
	28		1	40
1067				
Oct.	28			80
	"			90
	"		1	50
	"			30
	30		4	50
Nov.	1		5	25
	7		3	
	18		30	
	"		70	
	"		21	25
	20		2	95
Dec.	1		2	50
Nov.	24		2	50
Dec.	9		8	
			341	13
	Ded. for 2 houses		66	
				275 13
		Roofs.		
May	23		400	
July	12		54	15
Sept.	17		47	64
Oct.	24		100	
Nov.	1		50	
	20		16	
Dec.	16		100	
			767	79
	Ded. for 2 houses		90	
				677 79
	Trimmings, July 30, '79			17 87
		Plastering, Hobbs (10 houses, 16th St.)		
1879.				
May	24		8	
	29		2	10

	29	5	
	29	2	25
	31	10	
	31	13	
Jan.	2		70
	7	15	
	11	5	25
	13	5	25
	14	55	
		16	
	16	10	40
		5	25
	20	24	
	21	8	
		45	
		2	50
	23	8	
		5	25
		6	75
	24	8	
1068			
June	24		60
	25	8	
	28	55	
		5	
July	1	8	
			20
	3	45	
		5	
	5	10	
		17	60
	7	8	
	9	8	
	9	2	
	9	6	25
	9	10	
	9	110	95
	9	8	
	12	60	
		6	40
		1	75
	14	16	
		2	
	15	5	
	17	10	70
		2	
		2	
	19	50	62
		8	
		7	20

		4	35
		5	40
	22	8	
		8	
	23	24	
	26	58	
	29	7	50
Aug.	2	8	75
	5	20	
	7	2	
	9	50	
	14	7	
		9	
	16	25	
		6	40
		8	
	20	5	
	23	35	
		8	
	26	4	
		2	
	29	5	25
	30	30	
Sept.	2	8	
	4	2	
	5	5	25
1069			
Sept.	5	4	80
	6	34	
		3	
	8	12	
		13	
		5	25
	9	5	25
	10	2	50
	12	3	20
		3	25
	13	20	
	20	23	
		17	
	27	1	50
		4	95
Oct.	4	4	25
	7	3	
	10	14	
	11	2	
	11	1	75
	11	4	25
	11	2	
	11	1	75

25		3	
27		3	
		1,287 57	
Ded. for 2 houses		250	
			1,037 57

Hobb's S St. houses.

1879.			
Dec. 9		30	
		6 85	
13		8	
12		8	
13		8	
		2 50	
17		6 40	
		2	
19		8	
20		8	
		40	
Jan'y 2		33 75	
		7	
5		8	
		1 50	
8		8	
3		3	
9		1	
10		10	
19		20	
19		8	
19		8	
24		9	
			245

1070 Plumbing.

1879.			
June 11		13 35	
14		24 75	
17		50	
21		5	
		50	
		15	
28		10	
		50	
July 3		7	
19		28 68	
		105 28	
Ded. for 2 houses		21	
			84 28

J. H. Kuehling.

June	18		50	
July	2	15		
	5	5		
	12	30		
	23	1		
	26	10	50	
Aug.	2	1		
	14	6		
	16	5		
	23	2		
	30	5		
Sept.	20	2	90	
Oct.	2	1		
	18	3		
	20	5		
	25	2		
		94	90	
	Ded. for 2 houses	20		
				74 90

Dennis Riley.

1879.				
June	14	35		
	21	4	91	
Dec.	1	5		
	9	1		
	10		75	
	11	1		
	13	27		
	15	1		
	17		50	
	27		25	
		76	41	
	Ded. for 2 houses	8		
				68 41

Curtis and Martin, painters.

June	14	12	25	
	21	10		
	28	7		
		3	70	
July	3	10		
	17	5	45	
	19	6		

1071

1879.				
July	19	8		
	29	15		

Aug.	5		3 50	
	9		25	
	11		2	
	14		15 71	
	16		12	
	18		7	
Oct.	24		20	
Nov.	8		20	
			182 61	
	Ded. for 2 houses		40	
				142 61
	Total			$17,109 24
	Pettit & Dripps		1,875 66	
	Ded. 2 houses		578 92	
				1,296 74
	Brick Co. assumed by P. & D. & $185 p'd by Hooper			758 65
				19,164 63

1072 Robert A. Balloch in ac. with Square, #177.

1878.			
Nov.	2. Paid Brent for excavating	$20	
	4. " surveying	5	
	" brick Co.	100	
	" Sterling to get hose		25
	" " " "		25
	6. " Schooler for cartman	1	
	" Sterling, lime	8	
	" " line to measure	1	
	" Schooler for sand	3	
	" for use of water, 5 houses	5	
	8. Lumber, 6.25; hauling, .25	7	
	9. Brick Co.	100	
	C. Brent, excavating	85	
	Williams, carpenter	4	
	12. Sterling, lime	9	
	13. " "	10	
	Plumley (42 frames @ 60c.)	20	
	Brick Co.	100	
	14. Paid Branson (excavating)	10	
	Brick Co.	100	
	15. Sterling, lime	9	
	Willet & Libbey	12	75
	16. Branson for Brent (ex.)	60	
	Carrying water	2	
	Sand	10	

1073

1878.

Nov.	16.	Recording deed	2	
		Sterling	175	
		Schooler (excavating)	2	
	18.	Water tap, 6th house from Swann	5	
		Branson for sand	37	
	19.	Lime, Sterling	9	
	20.	100 lbs. nails, 10-penny	2	25
		Lime, Sterling	9	
		Mrs. Barker, drawing plans	1	50
	21.	Plumley	30	
	23.	F. Sterling	65	
		Branson on ac. water, 3; brick, 3	6	
		Saffell, carpenter	5	
	25.	1,000 ft. sheathing	15	
		Lime	9	
		Abstract, Ashford	25	
		Recording trust, brick Co.	2	50
	26.	Shiles, lumber	100	
		Gessford & Son, carpenters	10	
		Major & Saffell, "	5	
		Howard on ac. plans	2	50
		" " " (order)	5	
		Permits (10 houses)	20	
		Branson, carrying & piling brick	3	
	27.	Schooler		75
	29.	1,771 ft. joist	22	89
		Lime	9	

1074

1878.

Nov.	30.	Lime	9	
		Sterling	150	
		Carpenters	10	
		Shiles	30	
		Howard on ac. plans	5	
		C. Brent	10	
		John Lenman, watchman	3	
Dec.	2.	F. Sterling, sand	36	50
		F. W. Howard	2	
	3.	F. Sterling	9	
	4.	Plumley	35	
		Shiles	15	
		Jno. G. Adams on ac. ground	200	
	5.	Stevenson ft. F. Sterling	3	55
		F. Sterling	2	83
		Shiles	100	
	7.	Laborer, dig-ing around the houses	5	
		Gessford & Son, carpenters	17	
		Major & Wagner	13	

		C. Brent	20	
		F. Sterling for men	49	
		Laborer, digging	1	50
		C. Brent, p'd Schooler, excavating	3	
	10.	John Lenman, watchman	5	
	10.	Recording release & trust, Vanderlip	3	
		" " " " Mayse	3	
		F. Sterling for men	40	
	11.	Laborer, digging, Crosby, bal. due	2	
1075				
Dec.	13.	F. Sterling, lime	9	
		C. Brent, sand hauled, Branson	2	
	14.	" " " "	24	
		F. Sterling	70	
		" slack stuff	20	
		Gessford & Son	5	
		Major & Wagner	5	
		Plumley	50	
		Terry, drawing & ack. trust to brick Co.	1	50
		" " " " Adams	1	50
		" " deed from Adams	1	
		" " & ack. release # 48	1	50
		" " " trust, Moses	1	50
		" " " " brick Co.	1	50
		Recording release of # 48	1	25
		M. Ashford, ctf.	5	
		Hardware, nails	50	
	16.	F. Sterling, lime	9	
	18.	" "	9	
		Terry, drawing and ack. deed to P. & D.	1	50
		Watchman, B.	7	
		Plumley	50	
		McLain, lumber	130	
	20.	F. Sterling, lime	9	
		4 lbs. nails	20	
		Howard on ac. plans	1	80
		Nails	50	
1076				
Dec.	21.	Gessford & Son	4	
		Branson on ac. sand, F. Sterling	2	
		F. Sterling	110	
		" sand	9	
		John Lenman, piling bricks, &c.	1	25
		Schooler on ac. sand, Sterling		50
	24.	" " " "	2	
		Major & Wagner	3	
		Watchman	5	
		F. Sterling	7	
		" sand, Branson	3	10

	26.	P'd Schooler on ac. sand	1	
	27.	C. Gessford & Son on order	1	60
	28.	Branson on ac. sand	2	75
		F. Sterling	3	
	31.	Watchman	7	
		Sterling, sand	5	
		" lime	9	
		Man for going after lime (2)		50
1879.				
Jan'y	1.	F. Sterling, sand, Branson	1	50
	2.	"	22	
	4.	"	8	
		Gessford & Son	1	
		Branson on ac. sand, Sterling	1	15
		" " excavating		85
		John Lenman on ac. piling brick		75
	9.	Sterling	40	

1077

1879.				
Jan'y	9.	Watchman	5	
		Hardware, nails		25
	11.	F. Sterling	2	
		" sand		75
		Williams, carpenter	1	
	14.	Sterling, line	7	20
	15.	Broderick, watchman	10	
		Nails	1	25
		C. Brent, ex., p'd Schooler	1	00
	16.	Foley for Brent on ac. excavating	3	
		Sterling	3	
		Gessford & Son	1	
		McLain, lumber	45	
		F. Sterling for men	1	
	18.	"	3	
		"	4	
		C. Brent, excavating, Branson		50
	20.	Wagner & Major	2	
	22.	"	6	
	21.	Nails		60
	22.	C. Brent on order	2	90
		Gessford & Son	1	10
		C. Brent { Schooler, .50 / Branson, .25 }		75
	23.	Watchman	5	
	24.	Sterling	1	
		" (Hazilip)	5	
		" (Pyrell)	4	

1078

1879.

Jan'y 24.	Sterling	21	
25.	Gessford & Son	5	
	Sterling (Pyrell)	1	
	" sand		50
	Mending wheelbarrow		25
	Digging around the house		50
	Sterling	12	
28.	James Wagner	1	
29.	Gessford & Son	2	
30.	Broderick, watchman	5	
31.	Sterling	2	
Feb'y 1.	"	25	
	Broderick	2	
	John Lenman		50
	C. Brent { Schooler, .40 / Branson, .10 }		50
5.	" do.	1	50
	Broderick	5	
7.	Brent, p'd Mrs. Branson		75
11.	Watchman, Broderick	3	
	F. Sterling	13	
	"	20	
12.	C. Brent, p'd Schooler		50
13.	Broderick, watchman	2	
	Gessford & Son	5	
14.	F. Sterling, Tom Terrell		93
	" Boswell, p'd men	12	
	" order Hopes	6	
	" self	3	
	C. Brent, excavating { Schooler, 1.10 / Branson, 1 }	2	10

1079

1879.

Feb. 15.	Broderick, watchman	4	
17.	Sterling	19	
	"	3	
	C. Brent, ex. { 2 affdt. .50 / Branson, 1.50 }	2	
19.	Sterling	7	
	Broderick	2	
	Sterling, small change	3	
	" brick given Horrigan	4	
21.	Howard, bal. of plans	3	70
22.	F. Sterling on ac.	2	50
	Williams, carpenter	1	
24.	Broderick, watchman	1	50
	C. Brent, Branson		25
28.	J. A. Plumley	20	

		Sterling	1	25
		Broderick	10	
M'ch	1.	Sterling	3	
		C. Brent, ex.	5	40
	3.	F. Sterling	5	
	4.	C. Brent (p'd McIntosh for Branson)		25
	5.	"		50
	8.	"	1	40
		Broderick	6	
		C. Brent, ex.	1	
		Williams		75
	8.	Brick Co.	80	
	7.	" rec'd from Eastwood	100	
1080				
M'ch	8.	Gessford on ac. frames	25	
		Gessford & Son		50
		Foley, C. Brent	3	
		C. Brent	1	25
	13.	F. Sterling, his father	10	
	15.	"	15	
		Hardward for frames, Gessford	10	
	14.	Watchman	1	
	15.	"	3	
		Hardware, 1 keg nails	2	75
	18.	Watchman	5	
		Gessford on ac. frames	25	
		Lumber, Kitch	9	60
		C. Brent		25
	21.	Sterling, lamp, 50c.; oil, 25c.		75
		Extra sand, p'd Lee	2	
		" " " Hope	2	
	22.	Sterling, father	25	
		Plumley, frames	25	
		Michell	56	33
	24.	Sterling	10	
	27.	" lime	8	
		Gessford on ac. frames	20	
		Broderick	8	
		Sterling, lime	8	
	26.	J. D. Kitch, 1,000 ft. sheathing	15	
		" 1,440 " "	21	60
		" 800 " 3 x 4, 16	12	
		" 15 pieces 2 x 8, 16	4	73
1081				
1879.				
M'ch	29.	Sterling	100	
		Gessford on ac. frames	3	
		J. D. Kitch	15	
		"	4	80
	31.	Sterling	35	

		Use of water 5 houses add'l	7	50
Ap'l	2.	Sterling	29	42
		"	4	50
	3.	Mitchell		60
		Branson on ac. C. Brent		25
		C. Brent, cr. Branson & Schooler	32	
		Broderick	2	
	4.	F. Sterling	2	
	5.	"	5	
		Branson		25
		Gessford on ac. frames	5	
	7.	Mitchell	6	
		Boyce on ac. foundations	2	
		Broderick	1	50
	8.	Boyce	5	
	9.	Broderick, brick given Thompson	1	20
		"	5	
		Boyce on ac. foundations	3	
	10.	F. Sterling	6	
	12.	"	20	
		Mitchell	3	45
		Broderick, watchman; Fogarty, brick	4	33
		"	1	50

1082

1879.

Ap'l	12.	Gessford on ac. frames	8	
		Sterling	5	
	15.	"	4	25
		Mitchell	3	50
	16.	Sterling	1	
	17.	Watchman	2	50
		Boyce	4	
	19.	Sterling	56	84
		Gessford on ac. frames	1	50
		Mitchell	8	50
		C. Brent, ex.	2	50
	21.	Sterling, lime	8	
		" 2 bbls. bl'k	8	42
		" f't, .69; hauling, .75	1	44
	22.	Mitchell	7	
		Broderick	5	
		Lumber, McLain	45	
		Mitchell	17	64
	23.	"	6	
		Gessford on ac. frames	5	
		Sterling, lime	8	
	26.	Mitchell	25	
		Gessford on ac. frames	20	
		Sterling	159	51
	28.	Nails		50

		1 keg nails	2	75
	30.	Branson on ac. excavating	3	50

1083

1879.

Ap'l	30.	F. Sterling, hauling, 75c.; f't, 53c.	1	28
		" sand, p'd by Bob	10	
		" lime	8	
		" black stuff	8	20
		Gessford on ac. frames	10	
		Boyce, bal. S-St. foundations	3	
May	1.	Schooler on ac. excavating, C. B.	1	50
	2.	Broderick	7	
		Wash. Brick Ma. Co., brick	20	
	3.	" " " " "	20	
		F. Sterling for men	65	
		Gessford	17	25
		Mitchell	10	
		"	6	
		J. D. Kitch	2	40
		"	8	10
		"	16	38
		Gessford	65	
		"	14	39
		" hauling frames	3	
		Hauling lumber	1	50
		J. D. Kitch	153	81
		Mitchell, bal. on order		30
	5.	1 keg nails	2	25
		Branson on ac. ex.	1	32
	6.	Broderick	1	50
	7.	Gessford	7	

1084

1879.

Mar.	8.	Watchman	1	
	10.	F. Sterling	1	25
		" lime	8	
		C. Gessford	15	
		Bricklayers	15	
		3 laborers, $6.25	18	75
		Mitchell	5	
		Watchman	1	
	12.	Mitchell	5	
		Branson on ac. excavating	2	75
		Bricklayers	15	
		Watchman	2	
		Bricklayers, Jasper	4	
	14.	Gessford	26	50
		Jasper, bricklayer	3	50
	16.	Branson on ac. ex.		60

		Broderick	1	25
	17.	Mitchell	2	
		"	20	
		Gessford	35	
		Watchman	1	50
		Laborer, cleaning out cellars	1	
		" " " "		94
		Cleaning brick		60
		Sterling	53	34
	19.	Gessford	1	
		Broderick	2	

1085

1879.

May	20.	Mitchell	2	
	23.	Gessford	2	
		Laborer	1	
		Watchman	1	
	22.	Nails	2	25
	23.	Gessford	1	
		Coal oil		25
	24.	Gessford	7	
		"	20	
		Watchman	3	
		Laborer	2	
	23.	Caveley & Co. for tinning	400	
		Eastwood, disc't	40	
	24.	4,000 lath-, McLain	8	
	13.	2 kegs nails, 8-pennies	5	
	29.	1 " "	2	50
		30 lbs. lath nails	2	10
		1 bbl. lime	1	25
		Gessford	20	
		2½ M lath-	5	
		Watchman	5	
		2 kegs nails	4	75
		Nails for lathers	2	25
		Gessford on ac. Cornish	9	25
		Schooler, excavating	1	
	31.	Kitch, 5 M lath-	10	
		Michell	11	50

1086

1879.

May	31.	Gessford on ac. Cornish	11	50
		Mitchell	5	
		"	4	
		James G. Ashton, bricklayer	2	
		M. Hobbs, plasterer	13	
		Broderick, watchman	6	
June	2.	10 lb. lath nails		70

	Mrs. Mitchell			2	
4.	Subdivision expense			2	50
	Gessford			3	
	8 blank trusts				40
6.	Making 8 trusts & ack. by Terry			12	
	Hooper, com'n			400	
	Sturtevant assessing 1 %			16	
7.	Gessford	*50		50	
	"	13	20	13	20
	Gessford, p'd Riggles	6		6	
	Watchman			6	
	Ashford, abstract for Hooper			5	
	Int. to date on Brick Co.'s note			65	05
	Brick Co. on ac. note	161	35	161	35
	" " 13,200 brick	73	60	73	60
	Hooper, insurance			20	
	Plumley on ac. frames	10		10	
	Hobbs on ac. plastering	15		15	
	Sterling, sand	1	50	1	50
	C. Brent, ex.	2		2	

1087

1879.

June 2.	2 kegs nails	5		5	
	Germuller on ac. plan			10	
	Mitchell	8		8	
	Brick Co. bill, assumed by Eastwood	1,100		1,100	
9.	Brick Co., for brick	200		200	
	Mitchell, 25 lb. nails		75		75
10.	Broderick, watchman, in full			14	
	Kitch on ac. lumber	75		75	
	Ashford, on ac. abstract			5	
	Jno. G. Adams, on ac. land			4,053	34
	" " interest			146	66
	Mitchell, stepping	21	28	21	28
11.	Gessford	11	50	11	50
	Somerville, gas pipe for 2 houses	13	35	13	35
	Kitch	50	25	50	25
	"	574	05	574	05
13.	Hobbs, 1 keg lath nails	5	25	5	25
	(P'd Kitch by ac., $700.)				
	Laborer, bal. due			1	
	Sandman	2		2	
	Recording 8 trusts			18	
	Ctf. from Ward on ac. liens, &c.			1	
	1 keg nails	2	25	2	25
14.	Mr. Riley, for pitching	35		35	
	Gessford	70		70	

*Figures in this column in red ink in copy.

	Hobbs	*55		55	
	Recording release			1	25

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1879.

June 14.	Plumley	5		5	
	J. D. Kitch	25		25	
	Somerville	24	75	24	75
	Nails	2	50	2	50
	Hobbs, 1 keg nails	5	25	5	25
	Eastwood, disc't on $150			12	50
	Sterling, sandman	1	50	1	50
	Sterling, p'd brickman (col'd)	4		4	
	Curtis & Co., paints	12	25	12	25
	Hobbs, lime & hair	16		16	
	Branson, excavating		50		50
	Padlock				25
16.	Tapping water-main			5	
	Hobbs, sand	10	40	10	40
	" 1 keg nails	5	25	5	25
	Hardware, 1 keg nails	2	50	2	50
17.	Watchman			5	
	Plumber, for cement & nitre		50		50
	C. Brent (Schooler)		21		21
18.	Disc't on $1,000			50	
	Int. on Brick Co.'s n., $1,100			44	
	Ashford, abst.			5	
	Terry, making trust & ack.			1	50
	Turner, plumbing	5		5	
	C. Gessford	7		7	
	J. D. Kitch	3		3	
	Recording release from Brick Co.			1	25

1089

1879.

June 18.	Recording trust to J. E. Kendall			2	50
	Albert McIntosh, ex.	1		1	
	Kuehling, bellman		50		50
20.	Hobbs, lime & hair	24		24	
	Branson		10		10
	McIntosh		15		15
21.	Riley, balance	4	91	4	91
	Plumbers' material		50		50
	Sterling, sandman	2	50	2	50
	M. Hobbs, sand	8		8	
	"	45		45	
	Painters	10		10	
	C. Gessford	40		40	
	Hardware	7	75	7	75

*Figures in this column in red ink in copy.

	Turner, plumber	*15		15	
	McIntosh, excavating	15		15	
	J. D. Kitch	20		20	
	W. R. Hooper, com'n			2	
	J. D. Kitch	4		4	
	M. Hobbs' ½ for putting in water	2	50	2	50
	A. McIntosh	2	40	2	40
23.	Hobbs, lime	8		8	
	C. Gessford	8		8	
	Hobbs, 1 keg nails	5	25	5	25
	Hardware	4	75	4	75
	Hobbs, sand	6	75	6	75
24.	" lime	8		8	
	" hair		60		60

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1879.

June 24.	C. Gessford, lime	8		8	
	Laborer			1	75
	25 lb. nails, Mitchell		75		75
	10 lb. nails		60		60
	Mitchell	27	57	27	57
25.	C. Gessford	3		3	
	" sand	11	20	11	20
	" lime	8		8	
	M. Hobbs, "	8		8	
	Watchman Cole			5	
27.	C. Gessford, 2 bbs. cement	2	20	2	20
28.	"	65		65	
	" p'd Riggles	3	50	3	50
	M. Hobbs	55		55	
	Mitchell	16		16	
	"	5		5	
	Curtis & Co., painters	7		7	
	" p'd Riggles	3	70	3	70
	McIntosh, excavating	35		35	
	Turner, plumber	10		10	
	McRoberts, stonemason	30		30	
	Sterling	5		5	
	Plumbers' material		50		50
	M. Hobbs, Terry	5		5	
30.	McRoberts	10		10	
July 1.	McIntosh	2		2	
	M. Hobbs, lime	8		8	

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1879.

July 1.	McRoberts, 16 bbls. lime	12	80	12	80
	Watchman			2	
	Hobbs, 1 bu. hair (24)		20		20

*Figures in this column in red ink in copy.

	C. Gessford	*6 75		6 75
2.	J. H. Kuehling	15		15
	C. Gessford	10		10
3.	Mitchell, 10 lbs. nails		30	30
	Laborer			3 50
	C. Gessford	95		95
	M. Hobbs	45		45
	McRoberts	30		30
	Curtis & Co., painters	10		10
	Turner, plumber	7		7
	Watchman Cole			3
	M. Hobbs, sand	5		5
5.	J. H. Kuehling	5		5
	J. D. Kitch	5		5
	M. Hobbs	10		10
	Mitchell	12		12
	M. Hobbs, sand	17 60		17 60
7.	Balloch, insurance			20
	M. Hobbs, 10 bbls. lime	8		8
9.	M. Hobbs, lime	8		8
	" hair	2		2
	" sand	6 25		6 25
	"	10		10
	C. Gessford	10		10
1092				
July 9.	Cole, watchman			5
	C. Gessford	74 77		74 77
	M. Hobbs, lath & hauling	110 95		110 95
	J. D. Kitch	168 06		168 06
	M. Hobbs, lime	8		8
	C. Gessford	8		8
10.	McRoberts	10		10
	G. B. Clark, slating	54 15		54 15
	G. O. Stevens, blinds	75 39		75 39
	McRoberts, sand	8		8
	" lime	8		8
11.	" lime	13 60		13 60
12.	Wash. Brick Ma. Co. on ac. trust	400		400
	" " int.			9 27
	" " 15,000 brick	82 50		82 50
	C. Gessford, lime	1 20		1 20
	James Wormley on ac. stone	50		50
	Mitchell	15		15
	Gessford	60		60
	Hobbs	60		60
	McRoberts	50		50
	Hobbs, sand	6 40		6 40
	Gessford, "	6 40		6 40

* Figures in this column in red ink in copy.

	Hamilton, putting in water, bal.	*3	50		3	50
	Hobbs	1	75		1	75
	J. H. Kuehling	30			30	
	McRoberts, sand	10	80		10	80

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1879.

July 14.	Hobbs, lime	16			16	
	" 10 bu. hair	2			2	
	Gessford, lime	8			8	
15.	McRoberts	20			20	
	Mitchell	1			1	
	Gessford	1			1	
	Laborer				4	
	Gessford	2			2	
	Hobbs, sand	5			5	
17.	Mitchell	3			3	
	Gessford	4			4	
	Curtis & Molton, paints, &c.	5	45		5	45
	Hobbs for plaster	10	70		10	70
	" brush	2			2	
	" sand, Donaldson	2			2	
	Gessford	1			1	
	" lime	8			8	
19.	"	50			50	
	Hobbs	50			50	
	McRoberts	35			35	
	Mitchell	20			20	
	" p'd Scott	10			10	
	Curtis & M.	8			8	
	Carpenter (Ray, extra)	5			5	
	Cole, watchman				5	
	Hobbs, Donaldson, sand	8			8	
	" Lyons "	7	20		7	20

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1879.

Jan'y 19.	McRoberts, sand	7	20		7	20
	Curtis & M. (paints, Riggles)	6			6	
	Somerville, plumbing material	28	68		28	68
	Sterling, sandman	5			5	
	Hobbs, cash		62			62
	" sand	4	35		4	35
	" "	5	40		5	40
	Gessford, "	8	10		8	10
	" "	4	50		4	50
22.	Hobbs, lime	8			8	
	Laborer, cleaning around houses				2	
	Hobbs, lime	8			8	

*Figures in this column in red ink in copy.

		Gessford, "		*8		8	
	23.	McRoberts		35		35	
		Ray, bal., extra				1	
		Kuehling		1		1	
		Hobbs, 30 bbls. lime		24		24	
	24.	Hardware for back blinds		1	25	1	25
	26.	Scrivener, bricklayer, S St.		1	70	1	70
		Hardware		1		1	
		Wormley		50		50	
		Hobbs		58		58	
		McRoberts		15		15	
		Painters		15		15	
		Mitchell, Scott		13		13	
		Pumphrey for hanging 54 pr. blinds		13		13	
		Gessford		25		25	
1095							
1879.							
July	26.	J. H. Kuehling		10	50	10	50
	28.	Nails		1	50	1	50
	29.	Hobbs		2		2	
		" for plaster		5	50	5	50
		Cole, watchman				5	
		Kitch		300		300	
		Holbrook Brick Co.		300		300	
		McRoberts		3	12	3	12
		Scrivener		1	50	1	50
	30.	Trimmings		17	87	17	87
Aug.	2.	Kuehling		1		1	
		Wormley		3	53	3	53
		McRoberts		3	53	3	53
		Measurement				3	54
		Hobbs, 5 bbls. plaster		8	75	8	75
	5.	"		20		20	
		Gessford		20		20	
		McRoberts		10		10	
		Scrivener		10		10	
		Sterling, paints for fronts		11	44	11	44
		Moulton & Curtis, paints		3	50	3	50
	7.	Mitchell, p'd Scott		8		8	
		Hobbs		2		2	
		Hardware		5		5	
	9.	Watchman				5	
		Hobbs		50		50	
		Wormley		75		75	

* Figures in this column in red ink in copy.

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1879.

Aug.	9.	Gessford	*50		50		
		Curtis & Co.	25		25		
		Mitchell, p'd Scott	10		10		
		" " self	10		10		
		" " Gray	14	25	14	25	
		" " Pumphrey	18	50	18	50	
		J. D. Kitch	25		25		
		McRoberts	17	40	17	40	
	11.	Curtis & M.	2		2		
		4 buil. permits			8		
	12.	Water, use of 5 houses			3		
		Connor for putting in water, S St.	12		12		
		Mitchell		50		50	
		"		30		30	
	14.	Gessford	26	50	26	50	
		Mitchell	51		51		
	15.	Hobbs, 4 bbls. plaster	7		7		
		Moulton & Co., paints, Riggles	15	71	15	71	
		Kuehling	6		6		
		Hobbs, lime	9		9		
	16.	"	25		25		
		Scrivener	5		5		
		Connor	1		1		
		Plumley	5		5		
		Gessford	50		50		
		Mitchell, Scott	10		10		
		" Pumphrey	10		10		
		" Gray	8		8		

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1879.

Aug.	16.	Watchman			5		
		Painters	12		12		
		Kuehling	5		5		
		Gessford	8		8		
		Hobbs, lime	6	40	6	40	
		" "	8		8		
	18.	McRoberts	3		3		
		Painters	7		7		
	20.	Hobbs	5		5		
		Connor	3		3		
	23.	Gessford	15		15		
		Scrivener	50		50		
		Hobbs	35		35		
		Cole, watchman			10		
		Kuehling	2		2		

* Figures in this column in red ink in copy.

	Hobbs, lime	*8		8	
	Mitchell, p'd Scott	14		14	
25.	Hardware	5	70	5	70
	Mitchell	5		5	
	McRoberts	14	69	14	69
25.	Hobbs, sand	4		4	
	Gessford, p'd Ray	2		2	
	" " Pumphrey	2		2	
	J. D. Kitch	30	40	30	40
	"	179	71	179	71
	"	64	47	64	47
	Mitchell	78	94	78	94

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1879.

Aug. 26.	Hobbs	2		2	
	Gessford	37	79	37	79
29.	Kitch	20		20	
	Hobbs	5	25	5	25
	Scrivener	5		5	
	Mitchell, nails, Gray	1		1	
30.	" Pumphrey	2		2	
	" Gray	4		4	
	Pumphrey	5		5	
	Gessford	10		10	
	Kuehling	5		5	
	Scrivener	30		30	
	Hobbs	30		30	
	Burke, carpenter	4		4	
	Kitch	90	85	90	85
Sept. 2.	Hobbs	8		8	
	Kitch	440		440	
4.	Hobbs, sand	2		2	
	Mitchell	3		3	
5.	Hobbs, plaster	5	25	5	25
	Nails (Burke)	3		3	
	Hobbs, lime	4	80	4	80
6.	"	34		34	
	Watchman			5	
	Pumphrey	20		20	
	Burke	8		8	
	Mitchell	12	50	12	50

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Sept. 6.	Mitchell, p'd his wife	9		9	
	" Gray	8		8	
	Hobbs, sand	3		3	
	Gessford	3		3	
	Scrivener	1		1	

* Figures in this column in red ink in copy.

	Kitch	*1	1	
	J. H. Riggles		2	50
	Wormley, order on Hooper	125	125	
8.	Hobbs	12	12	
	"	13	13	
	Gessford	7	50	7 50
	Hobbs	5	50	5 50
	M. Ashford, ctf.		5	
9.	Hobbs, plaster	5	25	5 25
10.	" sand	2	50	2 50
	Willet & Libbey	1	35	1 35
	Stevens	200	200	
	Tom Smith on ac. doors	425	425	
	Insurance		20	
	Burke on ac. back porches	60	60	
	Scrivener	1	1	
12.	Hobbs, lime	3	20	3 20
	" plaster	3	50	3 50
	Childs & Co., 12⅔ M brick	67	67	67 67
13.	Scrivener	40	40	
13.	" lime	25	25	
	Hobbs	20	20	
1100				
Sept. 13.	Gessford	11	11	
	Mitchell, Gray	12	12	
	"	21	21	
	Pumphrey	12	12	
	H. H. Burke	3	3	
	Prot. & int. on Mitchell's note	2	25	2 25
15.	Mitchell, p'd Mrs. M.	2	2	
	Gessford	10	10	
16.	Mitchell, p'd Mrs. M.	6	6	
17.	Caveley & Co., bal. roof	47	64	47 64
	Watchman		1	
	Hardware	3	50	2 50
	Pumphrey	3	3	
	Scrivener	1	1	
20.	Kuehling	1	40	1 40
	"	1	50	1 50
	Scrivener	25	25	
	Hobbs	23	23	
	"	17	17	
	Mitchell, p'd Gray	4	4	
	Gessford	10	10	
	Pumphrey	13	13	
	Burke	2	2	
25.	Watchman		10	
	Scrivener	1	1	

* Figures in this column in red ink in copy.

	27.	Scrivener	*25		25	
		Hobbs	1	50	1	50
1101						
Sept.	27.	Stevens	100		100	
		Hobbs, lime	3	20	3	20
		1 bbl. plaster	1	75	1	75
	30.	Watchman			9	
Oct.	1.	Pumphrey	1		1	
		Scrivener	10		10	
	2.	Gessford	2		2	
		Kuehling	1		1	
		Scrivener	9	37	9	37
		Pumphrey	4		4	
		Watchman			1	
	4.	Scrivener		60		60
		"	20		20	
		"	25		25	
		Gessford	10		10	
		Hobbs	4	25	4	25
		Pumphrey	3		3	
	7.	Scrivener, Ferry	10	75	10	75
		Ringold	8	75	8	75
		Stevens	206	21	206	61
		Scrivener, sand	3		3	
		"	3		3	
		Hobbs, Franklin	3		3	
		Gessford	5		5	
		Watchman			5	
	9.	Pumphrey	5		5	
		Scrivener, lime	57	40	57	40
1102						
1879.						
Oct.	9.	Scrivener	35		35	
		Gessford	5		5	
	10.	Hobbs	14		14	
	11.	Scrivener	5		5	
		Hardware	2		2	
		Hauling inside blinds			1	50
		Jake Michaels	5		5	
		West & Proctor, hauling dirt			15	
		Scrivener	1		1	
		Gessford	15		15	
		Michaels	7		7	
		Pumphrey	10		10	
		Hobbs, Franklin	4	25	4	25
		"	2		2	
		" 1,000 lath	2		2	

* Figures in this column in red ink in copy.

		Hobbs, ½ of water	*1	75	1	75
		" Johnson	1	75	1	75
	13.	Hardware, screws, &c.	2	25	2	25
		Hardware	15		15	
		Michaels	6		6	
	14.	Scrivener, sand	6	50	6	50
		Gessford	2	20	2	20
		Lumber	2	80	2	80
	15.	Hardware	50		50	
		Scrivener	8		8	
		Gessford	5		5	
		Scrivener	3		3	
1103						
Oct.	15.	Pumphrey	6		6	
	18.	Scrivener	50		50	
		Gessford	35		35	
		Davis, stair-builder	12		12	
		Grinnell	27		27	
		Kuehling	3		3	
		Scrivener	5		5	
		Cotton	2		2	
		Pumphrey	7	40	7	40
		Hardware	1	86	1	86
		Cotton	1	50	1	50
			$10,354	99		
	20.	Hardware (stairs)	5		5	
		Gessford	12		12	
		Kuehling	5		5	
		Int. Kitch acceptance			5	70
		Pumphrey	6	10	6	10
	22.	Lumber	15		15	
		Cotton	3		3	
		Watchman (1 arm)				50
		" Cole			15	
		Scrivener	20		20	
		Expense			2	
		West & Proctor			40	
		Burke, lumber	5		5	
		Grennell, lime	1	60	1	60
		Hardware	1	25	1	25
		Gessford		25		25
1104						
1879.						
Oct.	22.	Gessford	8		8	
		Hardware, nails	2		2	

* Figures in this column in red ink in copy.

		Scrivener		*3	50	3 50
		Hardware		27	07	27 07
		Pumphrey		15		15
		Expense, Fenwick				3
		Grenwell, sand		1	50	1 50
		Ashford, abs't				5
		Mayse, com'n				10
		Curtis & M., paints, Riggles		20		20
	24.	Davis, balisters		11	03	11 03
		Scrivener		18		18
		Cotton		3		3
		Recording				2
		Expense				34
		A. S. Johnson, roof		100		100
		Hayward & H., mantles		90		90
	25.	Cotton		8		8
		Hobbs		3		3
		Kuehling		2		2
		Laborer				1
		Kitch		4		4
		Pumphrey		15		15
		Davis		28		28
		Bricklayers, Greenell		43	09	43 09
		Gessford		15		15
		Expense				1 30
1105						
Oct.	25.	Laborer				3
		Scrivener		10		10
		Michaels		7		7
	27.	Hobbs		3		3
		West & Proctor				1
		Interest, J. D. Kitch				1 28
		J. D. Kitch		120		120
	28.	Laborers		11	93	11 93
		Ashford, brick-work		23	43	23 43
		Surveyor				5
		7½ days, carpenter		15		15
		Laying 3,456 brick		12	25	12 25
		25 lbs. nails		1	40	1 40
		Screws			80	80
		Sand paper			25	25
		2 doz. p'rs hinges			90	90
		1 doz. closit locks		1	50	1 50
		Hanging 10 p'rs blinds		2	50	2 50
		3 *p'rs* brads			30	30
		P'd Winfield				1 50
		Expense				1 24
	29.	Gessford		20		20

* Figures in this column in red ink in copy.

	30.	Hardware	*4 50	4	50
		Watchman, Cole		2	
		" one arm		1	
		Greenell, lime	8	8	
		" white sand	3	3	

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1879.

Oct.	30.	West & Proctor		29	
		Scrivener, p'd Ferry	10	10	
		"	10	10	
Nov.	1.	Stevens, expense		2	70
		A. J. Jordan	50	50	
		Grenell	46 31	46	31
		Cotton	15	15	
		Pumphrey	15	15	
		Hardware	5 25	5	25
	3.	Davis	5	5	
		Greenell, lime	9 60	9	60
		J. D. Kitch	279 96	279	96
		Chas. Gessford	12 93	12	93
		J. D. Kitch	111 83	111	83
	4.	Gessford	20	20	
		Scrivener, p'd Richard, bal.	19 75	19	75
		"	7 87	7	87
		" Donohue	15 75	17	75
		J. D. Kitch	275	275	
		Int., J. D. Kitch		1	60
	7.	Hardware	3	3	
		Scrivener	1	1	
		Sterling	6	6	
	8.	Scrivener, Ferry	2 50	2	50
		"	1 50	1	50
		"	4	4	
		"	3 50	3	50

1107

1879.

Nov.	8.	Mayse, com'n, $400, $15		35	
		Recording trust, Mayse, &c.		3	50
		Riggles, paints, $14		20	
		Pumphrey	25	25	
		Cotton	50		50
		J. G. Davis	15	15	
		Gessford	25	25	
		Greenell	25	25	
		J. D. Kitch	1	1	
		Greenell, 3 bbls. lime	2 40	2	40
	11.	Watchman		9	

* Figures in this column in red ink in copy.

		Gessford	*2 50	2 50
		Int., Kitch		80
		J. D. Kitch	75	75
		Cotton	2 25	2 25
	14.	Gessford	7 25	7 25
		West & Proctor		3 12
	15.	Pumphrey	30	30
		Gessford	34 50	34 50
		Plumley	10	10
		Cotton	14	14
		Michaels	1	1
		Watchman, Cole		3
	18.	Greenell, sand, white	3	3
		Cotton	1	1
		2 mantles	30	30
		2 latrobes	70	70
1108				
Nov.	18.	1 range	21 25	21 25
		Hooper, disc't on $225		25
	19.	T. W. Smith	25	25
	20.	5 transoms & 2 locks	7 95	7 95
		Felt, cotton, & lath	16	16
	22.	Cotton	11	11
		Gessford	4	4
		Davis	5	5
		Greenell	3	3
		Cotton	3	3
	24.	Hardware	2 50	2 50
		Gessford	1 50	1 50
		Gessford	25	25
	26.	Pumphrey	1	1
	27.	Scrivener	1 50	1 50
		"	2 50	2 50
		Greenell (2 laborers)	1	1
	29.	Cotton	12	12
		Gessford	1	1
		Watchman	2 50	2 50
		Kitch	10	10
		Cotton	3	3
		Pumphrey	2	2
		Riley for concreting	5	5
		Kitch	3	3
		Nails	1	1
		"	1 50	1 50
1109				
Dec.	3.	Gessford	5	5
	4.	"	8 50	8 50

*Figures in this column in red ink in copy.

		Davis	*3		3		
	6.	Watchman			10		
		Scrivener, sand	5		5		
		Pumphrey	10		10		
		Cotton	9		9		
		Greenell	6	50	6	50	
		Davis	3		3		
	6.	Cleaning house			4		
		Gessford	1	30	1	30	
		Disc't on $300, Ryan & Tracy			30		
	8.	Pumphrey	4		4		
		Greenell	3	92	3	92	
	9.	Gessford	1	50	1	50	
		Riley	1		1		
	10.	"		75			75
		Schooler & C.	1		1		
		Paints, Cotton	1		1		
	11.	Cotton	1		1		
		Riley	1		1		
	15.	Greenell	2		2		
	8.	Somerville, plumbing, Watson	94	50	94	50	
	9.	Hobbs, 15,000 lath	30		30		
		T. W. Smith, lumber	132	74	132	74	
		Nails	8		8		
		Hobbs, 1 keg nails	6	85	6	85	
		Brick Co.'s trust	1,100		1,100		
1110							
Dec.	13.	Riley, pitching, S St.	27		27		
		Hobbs, sand	8		8		
		Pumphrey	22		22		
		Watson, plumber	15		15		
		Pumphrey	4		4		
	16.	Roof, Goodridge	100		100		
		Watson, plumbing material, Somerville	94	50	94	50	
	20.	Hobbs	40		40		
		" sand	8		8		
		Pumphrey	25		25		
		Watson	26		26		
		Expense			1		
		Pumphrey	5		5		
		Watson	4		4		
	27.	Pumphrey	3	75	3	75	
		"	10		10		
		Watson	4		4		
		Adams, order given on Hooper			5,000		
		Hobbs, 15,000 lath	33	75	33	75	
		" nails	7		7		

* Figures in this column in red ink in copy.

		Watson		*5	50	5	50
		Com'n, Sturtevant				10	20
		" Hooper				255	
		Recording				22	25
		Insurance				20	
	13.	Cotton		4		4	
		Gessford		2		2	
1111							
Dec.	13.	Davis		1		1	
		Schooler & Johnson		11		11	
	15.	" "		4		4	
		Paints, Cotton		5		5	
		Greenell		2		2	
		Riley		1		1	
	16.	Paints, Cotton		1		1	
		Allen				5	
	17.	22 transoms		3	30	3	30
		Gessford		1	75	1	75
		Gas company, 5 houses				5	
		Ast-acle, moulding		1		5	
		Riley			50		50
	18.	Paints, Cotton		1		1	
	20.	Cotton		5		5	
		"		2		2	
		Schooler		5		5	
		Lumber, Kitch		10	50	10	50
	24.	Greenell, Dorsey		3		3	
		Plasterer, pointing up 5 houses		11	25	11	25
		Gessford		11		11	
		Watchman, Cole		5		5	
		Greenell		1		1	
		Davis		1		1	
		Cotton		2		2	
		Paints, Cotton		1		1	
	27.	Cotton		2		2	
		Gessford		2		2	
1112							
Dec.	27.	Riley			25		25
	31.	Gessford		4		4	
		Davis			60		60
		Cotton		1	50	1	50
		Greenell			50		50
1880.							
Jan'y	1.	Greenell, paints		2		2	00
		Cotton		1	75	1	75
	3.	"		3		3	
		Gessford		3	50	3	50

* Figures in this column in red ink in copy.

		Gessford	*1		1		
		Greenell	1		1		
		"		50			50
		Davis	1	35	1		35
		Greenell, Graham	2		2		
		Pumphrey	3		3		
		Hobbs	1		1		
		"	2		2		
	7.	Watchman, Cole			1	75	
	9.	Hobbs	1		1		
	9.	Gessford, p'd by Eastwood	20		20		
		Paints	10		10		
	10.	Pumphrey	13		13		
		Hobbs	10		10		
		Davis	3		3		
		Burke	80		80		
Dec.	13.	Hobbs	8		8		
		"	2	50	2		50
Dec.	12.	"	8		8		
1113							
	1879.						
Dec.	17.	Hobbs, 8 bbls. lime	6	40	6		40
		" 8 bu. hair	2		2		
	19.	" 10 bbls. lime	8		8		
	1880.						
Jan'y	5.	" 10 " "	8		8		
		" 6 bu. hair	1	50	1		50
	8.	" 10 bbls. lime	8		8		
	12.	Greenell	1	25	1		25
		Cotton		50			50
	17.	" p'd by Eastwood	28	50	28		50
	19.	Hobbs	20		20		
		" sand	8		8		
		Pumphrey	13		13		
		Watson, p'd by Eastwood	11		11		
		" on Eastwood's house	13		13		
	20.	Hobbs, lime	8		8		
		Permits, six houses			12		
		Total footing	4,519	46	$31,217		41
		Pettit & D.'s bill for work done	1,875	66			
		Brick Co., assumed by P. & D. & p'd by Hooper	758	65			
			$7,153	77			

* Figures in this column in red ink in copy.

1114

1879.

June 6. *$400.	Com'n p'd Hooper		400	
	" " Sturtevant		16	
	Int. on $150 trust on 13th St.		7	50
	Bal. of int. due on 13th St.		12	50
	Ins. renewed on 2 houses on 13th St.		12	50
7.	Recording 8 trusts & ctf. from Ward		19	
	Cash		300	
	P'd Brick Ma. Co.		300	
	" 4 ins. policies		20	
10.	" Adams		4,200	
	" Balloch, by c'k		200	
13.	Endorsed J. D. —— draft payable July 9		700	
14.	Cash		220	
18.	Brick Co.		189	
*$2. 21.	Cash		127	
28.	" (ask. for $500)		240	
30.	"		40	
July 3.	"		225	
7.	Order given Gen'l Balloch, ins.		20	
10.	Cash		130	
12.			1,000	
	Int. on 3 houses on 13th St.		337	50
*$2.	Protest on $700		2	
*$479.15.	Payment on 2 Mass. Ave. houses		800	
19.	Cash		300	
22.	Order for F. H. Smith		26	38
	" "		45	
26.	Cash		300	
27.	Gave order to Holbrook		300	
Aug. 9.	Cash		700	
16.	"		50	
23.	"		30	
Sept. 6.	Order given Wormley		125	
8.	To pay off trust on 13th St.		150	
	" " taxes " "		104	17
	" " Ward		10	
	Insurance		20	
10.	P'd Stevens, of Baltimore		200	
	Order for Tom Smith		425	
13.	Cash		60	
	P'd Bond, Mitchel's note		27	25
17.	Order Cavelry & Co.		47	64
20.	P'd for centre pieces		23	
27.	Stevens, Baltimore		100	
	Cash		50	

*In red ink in copy.

Oct.	7.	Cash, Stevens	200	
		" $50, $12	62	
	10.	"	60	
	15.	Order, Kennedy	57	40
		" given Smith	45	
	18.	Cash	100	
	23.	Cash	90	
*$100.	24.	P'd Cavelry & Co.	100	
Nov.	6.	Cash, J. D. Kitch	200	
		A'mt bro't forward	13,525	84
1879.				
Sept.	18.	Cash p'd Balloch	25	
Dec. 8. *$255. *208.33.		Miscellaneous	745	38
		Order to Somerville	94	50
	9.	" " Tom Smith	162	74
		Nails & cash	14	85
	13.	Brick Machine Co.	1,100	
		Dennis Reilly, pitching	27	
		Cash	50	
	16.	" roof	100	
*$94.50.		Order to Somerville	94	50
	20.	Cash	100	
	27.	"	25	
*$5,000.		Order to pay Adams	5,000	
Jan'y	2.	Cash	7	
		Order F. H. Smith	33	75
		" given Kennedy for lime	100	
	10.	Cash	20	
	17.	"	12	
	19.	"	43	
			$21,280	56

1115

ASSESSOR'S OFFICE,
WASHINGTON, D. C., *Jan'y* 7, 1887.

Statement of General and Special Taxes Due on the Following-Mentioned Lots, Including Interest, Penalties, &c., to Feb'y 25, 1880.

Sublot H, square 446	$57 37
" 14, " 722	65 58
" 15, " "	53 33
Or'g'ls 1, 2, 3, 15, & 16, afterward 17 to 29, and 47 to 56, afterward 80 to 100	594 12

*In red ink in copy.

Square.

Corporation special taxes, lot- 3 and 12, square 177	$85 19
	855 59

(S'd) WILLIAM MORGAN,
Ass't Ass'r.

1116 Dist. of Columbia, water supply and sewerage.

WASHINGTON, *Jan'y* 10, '87.

Statement of Water-Main Taxes Due on the Following-Mentioned Lots, Including Interest, Penalties, &c., to Feb'y 25, 1880.

Sublot- 14 & 15, square	722	$19 17
Lot- 1, 2, 3, 15, 16,	177	684 68
		703 85

J. WILL CROSS,
Clerk Water Office.

P. S.—Sublot H, square 446, taxes were paid to above date.

1117 Office of Commissioners, Dist. of Columbia, special assessment division.

WASHINGTON, *Jan'y* 8, 1887.

The records of this office show that on the 25th day of Feb'y, 1880, the following special assessments were due and unpaid:

In the name of J. G. Adams, square 177, lot 15, 16 street	$453 82
Interest, @ 10 %, from Nov. 18, 1872	329 90
Costs	7 15
Lot 16, 16th St.	453 82
Interest, @ 10 %, from Nov. 18, '72	329 90
Costs	7 15
Lot 3, S street	30 30
Interest, @ 10 %, from July 12, 1877	7 94
Lot 2, S street	30 34
Interest, @ 10 %, from July 12, 1877	7 96
Lot 1, S street	88 43
No interest.	
	*1,746 71

* In pencil.

1118 Office of the Commissioners, District of Columbia, special assessment division.

WASHINGTON, 2.

In the name of J. B. Archer, square 722, lot 14, 2nd street	$38 23
Interest, @ 10 %, from June 18, 1887	10 27
Lot *of* 15, 2nd street	10 87
Interest, @ 10 %, from June 18, 1887	2 92
Owner unknown, private alley, 4 feet, 2nd St.	6 91
No interest.	
In the name of W. S. Huntington, sq. 722, lot 14 (Terry sub), Mass. Ave.	23 51
Interest, @ 10 %, from M'ch 29, 1877	6 82
Lot 15 (Terry sub), Mass. Ave.	48 08
Interest, @ 10 %, from M'ch 29, 1877	13 96
In the name of F. W. Howard, sq. 446, lot H (6 St.), alley assessment	21 78
Interest, @ 10 %, from Apr. 2, 1877	6 31
	*189 66

(S'd) WM. OSCAR ROOME,
Chief of Sp'l Ass't Division.

[Endorsed:] No. 8381. Equity. Balloch *vs.* Hooper *et al.*

1119 WASHINGTON, D. C., *October* 31, 1881.

Mess. Mass. Mutual Life Ins. Co. in account with F. H. Smith & Son.

				DR.	CR.
Oct. 27.	By cash, N. Y. d'ft				500 00
Oct. 18.	Ac. 1808, '12, '14, '16 16th St.,		certificates of taxes	12 50	
22.	Do.	"	ac. painting	17 00	
22.	Do.	"	ac. carpenter	12 00	
29.	Do.	"	ac. carpenter	108 77	
29.	Do.	"	ac. painting	25 00	
29.	Do.	"	lumber bill	251 55	
29.	Do.	"	commission, 10 % on $500	50 00	
29.	Do.	"	bal. to your credit	23 18	
				500 00	500 00

*In pencil.

1119*a* WASHINGTON, D. C., *Oct.* 21, 1881.

Mr. James Cook in account with F. H. Smith & Son.

DR. CR.

Rec'd of F. H. Smith & Son on ac. of painting done in houses 1808, '12, '14, & '16 16th St. N. W. ---- $17 00

COOK.

Witness:
F. B. SMITH.

1119*b* WASHINGTON, D. C., *Oct.* 22, 1881.

Mr. Jos. H. Gibbons in account with F. H. Smith & Son.

DR. CR.

Rec'd of F. H. Smith & Son on ac. carpenter work on houses 1808, '12, '14, & '16 16th St. N. W. ---------- $12 00

JOS. H. GIBBONS.

1119*c* $108.77. Received of F. H. Smith & Son the sum of one hundred and eight $\frac{77}{100}$ dollars, being in full for carpenter's pay-roll to date on houses 1808, '12, '14, & '16 16th street N. W.
Washington, D. C., October 29, 1881.

J. H. GIBBONS.

1119*d* $20.00. Received of F. H. Smith & Son the sum of twenty $\frac{00}{100}$ dollars, being on ac. painting on houses 1608, '12, '14, and '16 16th St. N. W.
Washington, D. C., Oct. 29, 1881.

(Jas. Cook.) COOK.

1119*e* WASHINGTON, D. C., *Oct.* 26, 1881.

Mr. James Cook in account with F. H. Smith & Son.

DR. CR.

Received on ac. of contract for painting houses 1808, '12, '14, & '16 S street N. W. ---------- $5 00

(Cook.) COOK.

Witness:
F. B. SMITH.

1119*f* $50.00. Received of Mass. Mut. Life Ins. Co. the sum of fifty $\frac{00}{100}$ dollars, being commission, @ 10 %, on $500 expended on houses cor. 16th & S streets N. W.
Washington, D. C., Oct. 29th, 1881.

F. H. SMITH & SON.

1119*g* WASHINGTON, D. C., —— —, 188-.

Mess. F. H. Smith & Son bought of Thomas W. Smith.

1881.					
Oct. 20.	To 12 doors, 2—8x7—01¼ for gla., pan., ogee	@ 2.00		24	
	8 doors, 3—0x8—01⅜ M. 2's	" 3.50		28	00
	3 " 3—0x7—4"	" 3.25		9	75
	5 " 3—0x7—6"	" "		16	25
	700 ft. 4-4 D. culls	" 2½		17	50
	2,008 ft. 4 " brand	" 2.40		48	19
	1,500 " 1¼ " back strip	" 1¼		18	75
	150 " 6-4 D. seconds	" 5		7	50
	200 " W. C. carpet strip	" 2		4	
	100 " " hearth "	" 1½		1	50
	500 "7" washboards	" 2½		12	50
	500 "6" "	" 2		10	
	200 " ⅝x⅞ ins. bead	" 1		2	
	400 " 1 " scotia	" 1		4	
	200 " 8 " washboards	" 3		6	
	500 " 1¼" ogee	" 80		4	
	200 " 1½" "	" 90		1	80
	40 " 4-4 D. poplar	" 5		2	
	42 " D. picks	" 3½		1	47
					219 21
	Haul to 16th & S St. N. W.				
" 22.	56 ft. 4-4 D. picks	@ 3½		1	96
	2 pr. 2x8—16=42				
	1 " 2x6—18—18=60	1½			90
					2 86
" "	12 transoms, 2—7x12, G., 1 l't,	@ 60		7	20
	4 " 2—8x18 "	1.00		4	
1119*h*	300 ft. 1⅛x⅝ ins. bead	90		2	70
	100 " # 2 W. P. partition	4		4	
	100 " 4-4 Va. p. flooring	2½		2	50
	150 " 1¼ " astragal	1¼		1	88
	400 " 4-4 Va. p. boards	1½		6	
	4 posts, 8-ft., cedar	30		1	20
					29 48
					$251 55

Haul to 16th, S & T N. W.

Rec'd payment,

THOS. W. SMITH.

Oct. 29, 1881.

[Endorsed:] Smith's statement & 18 vouchers. F. H. Smith & Son. Report No. 1. Oct. 31, '81.

1119*i* WASHINGTON, D. C., *Nov.* 7, 1881.

Francis H. Smith, Esq., agent, to Washington Brick Machine Co., Dr.

Nov. 2.	To 1,000 red	8 00	
"	" 1,000 arch	7 00	
			$15 00

Paid.

F. B. SHAFER, *For Co.*

1119*j* WASHINGTON, D. C., *Oct.* 22, 1881.

M-. F. H. Smith & Son bought of Frank P. May & Co.

2 dz. pr. 3 x 3 butts, 2.20; 12 rim *lox* & knobs, 3.50	5 70	
1 gr. sand-paper, .25; 1 of sash *lox*, .75; 1 gro. hat hoo*x*, 1.35	2 35	
9 dz. shutter bars, 3.60; 6 pa's fin. nails, 1¼, .72	4 32	
1 keg 10d. nails, 3.40; 1 keg 8d., 3.65; 1 keg 6d., 3.90	10 95	
10 lbs. 6d. fin., .60; 10 lbs. 5d. fin., .70	1 30	
2 dz. transom pivots, .30; 96 ft. rail, 3.84	4 14	
3 sets sheaves, .90—2.70; 4 S. D. locks, 5.00	7 70	
2 gro. screws, 1½ x 9, .86; 4. th. latches, .60	1 46	
4 barrel bolts, .60; 3 dz. door stops, .90	1 50	
		39 42
(25.) 1 gro. 1½ x 9 screws, .30; 3 doz. sill catches, 1.20	1 50	
1 pair hinges & screws, .15; 6 lbs. jute sash cord, 1.50	1 65	
1 gro. ⅜ x 5 screws	12	
30 w'ts, 5 lbs. each, 150 20 " 5½ lbs. " 110 } 390 lbs., 1½	5 85	
20 " 6½ lbs. " 130 } 195		9 12
(26.) 35 w'ts, 4½ lbs. each, 158 @ 1½ 79	2 37	
1 doz. sash cocks	75	
4 S. D. locks, 1.25	5 00	
3 doz. shutt. bars, .40	1 20	
5 sets sheaves, .90	4 50	
		13 82
31. 5 doz. 1¾ st. nar. butts		2 00
		$64 36

Rec'd payment (by check),

F. P. MAY & CO.,
Per McERVY.

Approved.
J. H. GIBBONS.

Approved.
E. J. SWEET.

1119*k* $ one $\frac{00}{100}$. Received of F. H. Smith & Son the sum of one $\frac{00}{100}$ dollars, being in full for cleaning back yards to 16th-St. houses.

Washington, D. C., Nov. 7th, 1881.

ROBERT JAMES.

1119*l* $200. Received of F. H. Smith & Son the sum of two hundred $\frac{00}{100}$ dollars, being ac. am't due for ranges & latrobes being now put up in houses cor. 16th & S Sts. N. W.

Washington, D. C., Nov. 7th, 1881.

E. M. CAVERLY & CO.

1119*m* $18. Received of F. H. Smith & Son the sum of eighteen $\frac{50}{100}$ dollars, being pay-roll for bricklayer & laborer to date, building basement steps, houses 1607, 1609, 1611, & 1613 S St.

Washington, D. C., Nov. 5, 1881.

J. N. ROLLINS.

1119*n* $11. Received of F. H. Smith & Son the sum of eleven $\frac{00}{200}$ dollars, being ac. painting 1808, 1812, 1814, 1816 16th St. N. W.

Washington, D. C., Nov. 5, 1881.

(JAS. COOK.) COOK.

1119*o* WASHINGTON, D. C., *Nov. 5th*, 1881.

Mr. F. H. Smith and Son to J. Stewart & Son, Dr.

To 24 straight steps, 3–2, at .35 per ft.	76 ft.
To 16 winders, 3–6, at .35 per ft.	56 ft.
	132
	35
	660
	396
	$46.20

Received payment,

JOHN STEWART AND SON.

O K.

E. J. SWEET.

1119*p* $102.25. Received of J. H. Gibbons, Esq., the sum of one hundred and two $\frac{25}{100}$ dollars, being for carpenters' pay-roll in full for week ending Nov. 5, 1881.

Washington, D. C., Nov. 5, 1881.

J. H. GIBBONS.

1119*q* $5.00. Received of F. H. Smith & Son the sum of five $\frac{00}{100}$ dollars, being in full for examination of taxes on lots in square 177.

Washington, D. C., Nov. 2, 1881.

WILLIAM L. BRAMHALL.

1119*r* WASHINGTON, *Nov.* 2, '81.

F. H. Smith & Son, Dr., to Jas. Cook.

To numbering 8 transoms in gold ---------- $8 00

Rec'd payment,

JAS. COOK.
his x mark.
COOK.

Approved for $8.00.
E. J. SWEET.

1119*s* WASHINGTON, D. C.

Messrs. F. H. Smith & Son to Lyles & Lake, Dr.

1881.
Nov. 3. To 7 loads bar sand, at 70c.---------- 4 90
" " 1 " " 80c.---------- 80

$5 70

Rec'd payment,

LYLES & LAKE.

Correct.
I. N. ROLLIN,
17*th-St. Wharf.*

1119*t* $111.00. WASHINGTON, D. C., *Nov.* 1, 1881.

Rec'd of F. H. Smith & Son one hundred and eleven $\frac{00}{100}$ dollars, the same being interest in full for 6 months to date on note for $3,700, due Nov. 1, 1882, secured on part of square 177, this city; the same to be endorsed on note.

J. BRADLEY ADAMS, *Trustee.*

1119*u* $2,000.00. WASHINGTON, D. C., *November* 1*st*, 1878.

Three years after date — promise to pay to the order of John G. Adams two thousand $\frac{00}{100}$ dollars, payable at Second National bank, value received, with interest at six per cent. per annum until paid, interest payable semi-annually.

No. six. Due —. ROB'T A. BALLOCH.

Secured by deed of trust.

[Endorsed:] 75661. Rob't A. Balloch.

Nov. 1–4 ---------- $1,520 32
6 month-, 6% -------- 46 37

Nov. 4, 1881 --- 1,566 69

Interest received to April 30, '80, $50.20. Interest paid to Nov. 1, '80, 53.35. Interest paid to May 1, '81, 45.61. John G. Adams. Dec. 27, 1879, cr. by cash from W. R. Hooper, 599.68, of which $120.00 is interest. Elvira F. Adams, executrix.

1119*v* WASHINGTON, D. C., *Nov. 2nd*, 1881.

Mr. F. H. Smith & Co., houses S St., 16th and 17th, bought of Mrs. E. J. Guinand.

5 bls. lime, @ 90	4 50
1 " cement	1 25
	$5 75

Received payment,

E. J. GUINAND.

Goods received & bill approved.
I. N. ROLLINS.

1119*w* WASHINGTON, *Oct.* 29, '81.

Mess. F. A. Smith and Son, Dr., to Geo. W. Rearden & Co.

26. To am't of ac. as p'r bill rend.	9 45
To 1 gall. turps., .60; 1 gall. b. oil, .70	1 30
" 2 S. tooles, .60	1 20
" 1 gall. b. oil, .70; ½ gal. turps., .60	1 30
" 1 S. toole, .30; 4 ft. end glass, 1.00	1 30
" 2 wall brushes	1 00
" 1 bucket, .30; 1 broom, .25	55
" 6 ℔ whiting	25
" 1 wall brush	1 00
" oil turps. & dryer	50
" 1 ℔. umber, .10; 1 gall. b. oil, .70	80
27. To ½g all. turps., .30; 1 qt. oil, .18	48
To dryer, .05; 25 L. lead, 2.00	2 05
" ½ gall. r. oil, .33; ½ gall. b. oil, .35	68
" pt. turps., .08; ½ pt. dryer, .08	16
" 2 ℔ green	36
" 1 gall. b. oil, .70	70
28. To 3 pt. turps., .24; 1 qt. oil, .18	42
To ½ pt. dryer, .08; 1 gall. turps, .60	68
" 1 ℔. green, .18; 1 ℔. umber, .10	28
" 1½ ℔ umber, .15; 1 pt. var., .25	40
" 1 ℔. putty	05
29. ½ gal. turps., .30; 1 qt. oil, .18	48
Dryer	05
	25 44

Rec'd payment,

GEO. W. REARDEN.

1120 WASHINGTON, D. C., *Nov. 8th*, 1881.

Massachusetts Mutual Life Ins. Co. in account with F. H. Smith & Son.

	1881.		Dr.	Cr.
	Oct. 29.	By bal. from last ac.		23 18
	Nov. 2.	" N. Y. draft		1,677 00
	3.	" rent 1605 S St.		10 00
	3.	" " 1810 16th St.		20 45
	4.	" N. Y. draft		2,000 00
1.	Nov. 2.	Ac. paint bill 16th St. houses	25 44	
2.	2.	Lime & cement S St. " (basement steps)	5 75	
3.	3.	Bal. $2,000 Balloch note & int. to date	1,566 69	
4.	3.	6 mos. int. to date, $3,700, Balloch note	111 00	
5.	3.	Sand S St. houses (basement steps)	5 70	
6.	3.	Numbering (painting) transoms, 16th St.	8 00	
7.	3.	Adjusting taxes	5 00	
8.	5.	Fire ins., $1,000 ea. on 1808, '10, '12, '14, & '16 16th St.	12 50	
9.	5.	Carpenters' pay-roll S St. houses	102 25	
10.	5.	Stone, — St. houses, for basement steps	46 20	
11.	5.	Ac. painting 16th St. houses	11 00	
12.	5.	Bricklaying, b. steps, S St.	18 50	
13.	5.	Ac. ranges & latrobe stoves	200 00	
14.	5.	Cleaning yards, 16th St.	1 00	
15.	7.	Hardware bill, 16th St.	64 36	
16.	7.	Brick for b. steps, S St.	15 00	
	7.	Commission, 10% on $2,000	200 00	
	8.	Bal. to your ac.	1,332 24	
			$3,730 63	3,730 63

1120*a* Vouchers herewith. The work has gone on slowly this week, it having rained the whole time. Mr. Hooper has taken tax bills to look over.

Resp'y, F. H. SMITH & SON.

[Endorsed:] F. H. Smith & Son. Statement No. 2. Nov. 8, '81.

1120*b* WASHINGTON, D. C., *Nov. 10th*, 1881.

Mr. Sweet, for F. H. Smith & Son, to William O'Donnell, Dr.

12 bo. best charco-l tin, 6 per —	$72 00
20 lbs. solder, 18 cts. lb.	3 60
	$75 60

Received payment,

WM. O'DONNELL.

Approved.
E. J. SWEET.

1120*c* $300.00. Received of F. H. Smith & Son the sum of three hundred $\frac{00}{100}$ dollars, being on ac. plumbing done on houses 1808, 1812, 1814, and 1816 16th street N. W.

Washington, D. C., November, 1881.

JOHN MITCHELL.

1120*d* $150.00. Received of F. H. Smith & Son the sum of one hundred and fifty $\frac{00}{100}$ dollars, being ac. contract for bricklaying on houses 1800, 1802, 1804, & 1806 16th St. N. W.
Washington, D. C., November 12th, 1881.

A. L. HUTTON.

1120*e* WASHINGTON, *Nov. 11th*, 1881.

Messrs. F. H. Smith & Son to E. J. Story, Dr.

To concreting the cellars of four houses on 16th St. N. W., bet. S & T Sts., 22.60 ---------- $90 40

Received paym't,

E. J. STORY.

Approved.
E. J. SWEET.

Nov. 12, 1881.

1120*f* 13.00. Received of F. H. Smith & Son the sum of thirteen $\frac{00}{100}$ dollars, being in full for grading in front of houses on S St. N. W., bet. 16th & 17th.
Washington, D. C., Nov. 12, 1881.

his
BEN. x QUALLS.
mark.

Witness:
F. B. SMITH.

1120*g* WASHINGTON, D. C., *Nov. 12th*, 1881.

Mess. F. H. Smith & Son:

Please pay to Wimsatt and Uhler eighty-four & $\frac{91}{100}$ dollars (84.91), and charge the same to me on acc't of S St. houses.

Yours, &c., D. D. THOMPSON.

Approved.
E. J. SWEET.

1120*h* $86.26. Received of F. H. Smith & Son the sum of eighty-six $\frac{26}{100}$ dollars, being in full for carpenters' pay-roll to date on houses 1800, 1802, 1804, & 1806 16th St.
Washington, D. C., Nov. 12, 1881.

J. H. GIBBONS.

1120*i* $21.00. Received of F. H. Smith & Son the sum of twenty-one $\frac{00}{100}$ dollars, being ac. brick-work on basement steps of houses 1607, '9, '11, & '13 S St. N. W.
Washington, D. C., Nov. 12, 1881.

ROLLINS,
By J. H. GIBBONS.

1120*j* WASHINGTON, D. C., *Nov.* —, 1881.

Mr. E. J. Sweet, for F. H. Smith & Son, to James F. Brien, Dr.

Nov. 2 & 3d. To digging up and examination of sewer pipes to find out their condition in the rear of the 4 houses on S St., at $1.50 each, as per agreement $6 00

Rec'd payment,

JAS. F. BRIEN.

1120*k* $10.50. Received of F. H. Smith & Son the sum of ten $\frac{50}{100}$ dollars, being in full for painting done to date on 16th St. houses.

HENRY A. GRANT.
his
GEO. x SANDERS.
mark.

Washington, D. C., Nov. 12, 1881.

Witness:
F. B. SMITH.

1120*l* WASHINGTON, D. C., *Nov. 12th,* 1881.

Messrs. Smith and Son:

To 4 blue-stone steps, 4 x 0 ft., at 35 pr. ft.	5 60
4 blue-stone d. sills, 1.50 apiece	6 00
	$11 60

Received payment,

JOHN STEWART AND SON.

1120*m* $11.00. Received of F. H. Smith & Son the sum of eleven $\frac{00}{100}$ dollars, being in full for services to date as watchman of houses N. W. cor. of 16th & S Sts. N. W.

Washington, D. C., November 14th, 1881.

JACOB D. HUTTON.

1120*n* $11.75. Received of F. H. Smith & Son the sum of eleven $\frac{75}{100}$ dollars, being in full for sodding yards of houses 1814 & 1816 16th St.

Washington, D. C., Nov. 16, 1881.

his
BEN. x QUALLS.
mark.

Witness:
F. H. SMITH.

1120*o* $400.00. Received of F. H. Smith and Son the sum of four hundred $\frac{00}{100}$ dollars, being ac. of plumbing in houses cor. S and 16th streets N. W.

Washington, D. C., Nov. 16th, 1881.

JOHN MITCHELL.

1120*p* WASHINGTON, D. C., *Nov.* 17, 1881.

Received from F. H. Smith & Son five dollars ($5) for excavating permits for gass services at No. 1808, 1812, 1814, 1816, & 1818 16th St. N. W.

WASHINGTON GAS L'T CO.,
P'r B.

1121 In ac. with Mass. Mutual Life Ins. Co.

NOV. 16TH, 1881.

Nov. 8.	By bal. as per ac. this date			1,332 24
14.	" N. Y. draft			2,000 00
15.	" rent, 1 month, adv., 1814 16th			27 50
15.	" " ½ month to date, 1605 S			10 00
Nov. 9.	To tin for 1800, '02, '04, '06 16th St.		$75 60	
11.	" ac. plumber, Jno. Mitchell		300 00	
12.	" bricklaying, 1800, '02, '4, '6 16th		150 00	
12.	" concreting cellars, 1808, '12, '14, '16 & 16th		90 40	
12.	" grading in front S St. houses		13 00	
12.	" lumber, 1800, '02, '4, '6 16th		84 91	
12.	" carpenters, " "		86 26	
12.	" b'klayers, basement steps, S St. houses		21 00	
12.	" examining sewer connec., S St. "		6 00	
12.	" painters, 1808, '12, '14, '16 16th		10 50	
12.	" stone, b. steps, S St. houses		11 60	
14.	" watchman to date		11 00	
15.	" sodding yards, 1814 & 1816 16th St.		11 75	
15.	" ac. plumber, J. Mitchell		400 00	
16.	" city gas Co. permits, 1808, '12, '14, '16, & '20 16th		5 00	
16.	" commission, 10 % on $2,000		200 00	
16.	" " 5 %, collect'g $37.50 rents		1 85	
16.	" bal. to your account		1,890 87	
	15 vouchers herewith.		$3,369 74	3,369 74

F. H. SMITH & SON.

O. K.
N. A. WINANS.

[On margin:] Vouchers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15.

[Endorsed:] F. H. Smith & Son. Statement # 3. Nov. 16, '81.

1121*a* WASHINGTON, D. C., *Nov.* 14*th*, 1881.

Mr. S. H. Smith bought of J. T. Walker's Sons.

1 bbl. R. Top 1 60

Paid.

J. T. WALKER'S SONS.

Correct.
I. N. ROLLINS.

1121*b* WASHINGTON, D. C., *Nov.* 18*th*, 1881.

Mr. F. H. Smith & Son to John R. Galloway, Dr.

Nov. —. To bell-hanging, & etc., in 5 houses on 16th St., Nos. 1808, 1812, 1814, 1816, 1820, per contract. $45 00

Rec'd payment,

JOHN R. GALLOWAY.

O. K.
E. J. S.

1121*c* WASHINGTON, *Nov. 10th*, 1881.

Mr. Sweet, for F. H. Smith & Son, to J. F. Nolan, Dr.

Concreting four houses, T St. bet. 16 & 17th streets N. W., $22.00 per house $88 00

Received paym't,

J. F. NOLAN.

Approved.
E. J. SWEET.

1121*d* WASHINGTON, D. C., ——, 188–.

Mess. F. H. Smith & Son bought of Thomas W. Smith.

1881.				
Oct. 26th.		600 ft. 1½ ogee		6 00
Nov.	1.	1 door, 3—0 x 7—6, 1¾ M. 2 # 1		3 25
		2 balusters, 1¾ S. M. long		16
		200 ft. ⅜ x 1⅛ bead		2 00
"	2.	3 p's 3 x 8—16—32—96 @ 1½		1 44
"	4.	18 brackets (large) @ 1.00		18 00
		36 " (small) @ 20		7 20
		55 p's 2 x 6—16 = 1,320		
		20 " 2 x 10—16 = 540	2,080 @ 1½	31 20
		20 " 2 x 4—16 = 220		
		1,000 ft. Va. pine boards		15 00
		1,000 ft. 3 x 4—20		15 00
		2,000 ft. Va. pine b'ds		30 00
"	5.	4 B. H. box frames, 9 x 20, seg., 4.00		16 00
		6 " " " " 22 x 7—2¼, 4.00		24 00
"		2 " " " " 14 x 7—2¼, 4.00		8 00
		1 " " " " 5 x 2⅛ x 9—6		5 00
"	9.	30 p's 2 x 6—16—480		
		30 " 2 x 10—16—810		
		20 " 2 x 8—16—420	2,550 ft. @ $15	38 25
		30 " 2 x 4—18—360		
		12 " 3 x 10—16—480		
		76 ft. 6″ ⅞ crown @ 3.60		2 74
		76 " 1⅜ x 3 wind. cap, 3		2 28
1121*e*		500 ft. ¼ D. picks, 3½		17 50
		500 " lin. 1 x 3 Va. pine, ½		2 50
Nov.	10.	10 B. H. box seg. h'd 9 x 18, no. sills, 3.40.		34 00
		4 " sq. " 9 x 18, seg., 2.90		11 60
		2 " " " 9 x 20, 3.23		6 46
		4 " seg. " 1—2 x 6—6¼, 3.40		13 60
		12 " " " 2—2″ x 6—6¼		40 80
		2,000 ft. ⅞ # 1 Va. flooring, .25		50 00
"	12.	20 p's 3 x 10—20—1,000		
		20 " 2 x 10—20— 780	2,095 @ 1½	31 43
		15 " 2 x 8—16— 315		

Nov. 12.	5 lights 9 x 18, squ., @ .10		50	
	11 " 9 x 14, " " 6½		72	
	2 " 18 x 28, seg., .40		80	
	Am't carried forw'd		$435 43	
	Am't bro't over		$435 43	
1881.				
Nov. 12.	2 lights 18 x 28, squ , @ .35		70	
	1 transom light 17 x 30, seg.		40	
	3 light- 18 x 28, squ., .50		1 50	
	1 " 14 x 32, " .34		34	
	6 " 18 x 32, " .50		3 00	
	1 " 13 x 32, "		34	
	1 " 14 x 28, "		30	
	Time glazing the above		2 50	
" 14.	50 p's 2 x 3—10—250 @ 1½		3 75	
	Ripped out of 3 x 4'		1 25	
	50 p's 2 x 4—10—350 / 50 " 3 x 4—10—500 } 850 @ 1½		12 75	
1121*f*	235 ft. ¾ Va. D. stepping, 4		9 40	
	150 " lin. 8" risers @ 3½		5 25	
	122 " 6/4 D. selects, wide, @ 6½		7 93	
	100 " 6/4 " seconds, 5		5 00	
	208 " 7/8 Va. boards, 3		6 24	
	500 " Scotia, 1		5 00	
	1 seg. hd. B. H. box frames, 18—5—4¼		2 85	
	3 " " " 22—5—2¼		8 55	
" 14.	2,000 ft. Va. # 1 flooring @ 2½		50 00	
				562 48
1881.				
Oct. 31st.	Cr. by 1 door 3—0 x 7—4—1⅜ M, 22		3 25	
Nov. 12.	" 12 frames 2—2 x 3—10¼ and 2—7½ x 3—10¼		12 00	
				15 25
				$547 23
" 16.	To 200 ft. 5/8 x 7/8 ins. bead @ .80		1 60	
	200 " 5/8 x ⅛ " " .80		1 60	
	1,000 " Va. p. sheathing " 1½		15	
	200 " 1½" astragal " "		3	
	10 p's 3 x 8—16 = 320		4 80	
				26 00
				573 23

Haul to 16th & S N. W.

THOS. W. SMITH,
P'r H. W. SMITH, Sr.

Approved.
E. J. SWEET.

1121*g* $210.00. Received of F. H. Smith and Son the sum of two hundred and ten $\frac{00}{100}$ dollars, being ac. brick-work on houses 1800, 1802, 1804, and 1806 16th St. N. W.

Washington, D. C., Nov. 19, 1881.

A. L. HUTTON.

1121*h* $133.51. Received of F. H. Smith & Son the sum of one hundred and thirty-three $\frac{51}{100}$ dollars, being carpenter's pay-roll to date, houses cor. 16th & S Sts. N. W.

Washington, D. C., Nov. 19, 1881.

I. H. GIBBONS.

1121*i* $100.00. Received of F. H. Smith & Son the sum of one hundred $\frac{00}{100}$ dollars, being ac. contract for ranges and latrobe stoves in houses 1808, '12, '14, & '16 16th St. N. W.

Washington, D. C., Nov. 19, 1881.

EDWARD CAVERLY & CO.

1121*j* $200.00. Received of F. H. Smith and Son the sum of two hundred $\frac{00}{100}$ dollars, being ac. contract for plastering 1607, 1609, 1611, 1611 S St. N. W.

Washington, D. C., Nov. 19, 1881.

THOS. H. LYNCH.

1121*k* WASHINGTON, D. C., *Nov.* 19, 1881.

Mess. F. H. Smith and Son bought of G. W. Rearden & Co.

Oct. 31.	To 12½ lb lead, 1.00; 1 gall. b. oil, .70	1	70
	" ½ gall. turps.,.30; (Nov. 1) 2 gall. b. oil, 1.50	1	80
Nov. 3.	" 1 " b. oil, .75; 12½ lb lead, 1.10; 10 lb putty, .50	2	25
	" 1 " b. oil, .75; 5 lb whiting, .25; ½ gall. turps., .30	1	30
	" ½ " r. oil, .35; 5 lb do., .25; 1 gall. b. oil, .75	1	35
	" ½ pt. asphelton, .08		08
9.	" 25 lb lead, 2.15; 2 gall. r. oil, 1.40	3	55
	" 1 gall. turps., .60; 10 lb putty, .40	1	00
11.	" 1 qt. dyer, .25; 5 lb umber, .50		75
12.	" 1½ gall. r. oil, 1.05; ½ gall. turps., .33	1	38
14.	" 1 stippler, 1.00; 2 lb walnut	1	40
	" 1 lb b't s-enne, .20; ½ lb umber, .05		25
	" ½ Ven. red., .03; 1 gall. r. oil, .70		73
15.	25 lb lead, 2.15; 1 lb Ven. red, .05	2	20
	Sp. bl'k, .05; (14) 25 lb lead, 2.15	2	20
16.	½ gall. turps., .33; 1 gall. b. oil, .75	1	08
	2 lb Brandon, .10; 1 lb Ven. red, .05		15
17.	2 gall. r. oil, 1.50; ½ gall. turps., .33	1	83
	2 lb Ven. red, .10; 2 lb ochre, .10		20
	1 qt. dyer, .20; 3 lb walnut, .60		80

	3 lb ochre, .15; 1 gall. b. oil, .80; 1 pt. dyer, .10	1 05	
	2 lb r. umber, .30; 1 to. brush, 1.30	1 60	
	1 s. tool, .30; 1 fitch, .15	45	
	1 gall. H. O. tin, 1.75; ½ lb umber, .05	1 80	
	½ lb Ven. red, .03; (18) 1 gal. turps., .65	68	
18.	5 lb putty, .25; 1 gall. turps, .65	90	
	25 lb lead, 2.15; 5 lb ochre, .25	2 40	
			34 85

Rec'd payment,

GEO. W. REARDEN & CO.

1121*l* WASHINGTON, D. C., *Nov.* 19, 1881.

Messrs. Smith & Co. to T. Tourney, Dr.

Oct. 26.	4 marbleized mantels, 18.00 each	72 00	
Nov. 14.	4 do. do.	72 00	
" 17.	4 brackets & shelves, 5.00 each	20 00	
			$164 00

Received payment,

T. TOURNEY.

1121*m* $150.00. Received of F. H. Smith & Son the sum of one hundred and fifty $\frac{00}{100}$ dollars, being ac. contract for carpenter work on S St. houses.
Washington, D. C., Nov. 19, 1881.

D. D. THOMPSON.

1121*n* $27.00. Received of F. H. Smith & Son the sum of twenty-seven $\frac{00}{100}$ dollars, being ac. brick-work (basement steps, &c.), S St. houses.
Washington, D. C., Nov. 19, 1881.

D. D. THOMPSON,
Per I. N. ROLLINS.

1121*o* $10.00. Received of F. H. Smith & Son the sum of ten $\frac{00}{100}$ dollars, being for ac. graining in house 1822 16th St. N. W.
Washington, D. C., Nov. 19, 1881.

J. G. WHITING.

1121*p* $20.00. Received of F. H. Smith & Son the sum of twenty $\frac{00}{100}$ dollars, being ac. painting to outside of houses 1808, '12, '14, & '16 16th St. N. W.
Washington, D. C., Nov. 19, 1881.

S. B. MOTEN.

1121*q* $31.50. Received of F. H. Smith & Son the sum of thirty-one $\frac{50}{100}$ dollars, being ac. painter's pay-roll 16th St. houses.
Washington, D. C., ——, 188-.

HENRY A. GRANT.
ROBERT REED,
For CROBD.

Witness:
F. B. SMITH.

1122 In account with Mass. Mutual Life Ins. Co.

Nov. 19TH, 1881.

1881.				
Nov. 16.	By bal. as per statement this date			$1,890 87
19.	To cement 1607, '9, '11, '13 S St.	$1 60		
19.	" bell-hanging, 1808, '12, '14, '16 16th St.	45 00		
19.	" concreting 1607, '9, '11, '13 S St.	88 00		
19.	" lumber bill	573 23		
19.	" brick-work, 1800, '02, '04, '06 16th St.	210 00		
19.	" carpenters, 1800, '02, '04, '06 16th St.	133 50		
19.	" ac. stoves and ranges, 1808, '12, '14, '16 16 St.	100 00		
19.	" ac. contracts plastering, 1607, '9, '11, '13 S St.	200 00		
19.	" paint bill, 1808, '12, '14, '16 16th St.	34 85		
19.	" mantels, 1808, '12, '14 '16 16th St.	164 00		
19.	" carpenters, 1607, '9, '11, 13 S St.	150 00		
19.	" bricklayers, " " "	27 00		
19.	" grainer, 1822 16th St.	10 00		
19.	" paint'g exterior, blinds, cornices, &c., 1808, '12, '14, '16 16th St.	20 00		
19.	" paint'g inside, 1808, '12, '14, '16 16th St.	31 50		
19.	" balance to your account	102 19		
		$1,890 87	1,890 87	

15 vouchers herewith.

F. H. SMITH & SON.

[On margin:] Vouchers No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15.

[Endorsed:] F. H. Smith & Son. #4. Nov. 19, 181–.

1122*a* $400.00. Received of F. H. Smith & Son the sum of four hundred $\frac{00}{100}$ dollars, being on ac. plumbing on houses corner 16th and S streets N. W.

Washington, D. C., December 1st, 1881.

JOHN MITCHELL.

1122*b* WASHINGTON, D. C., *Nov.* 26, 1881.

Mr. F. H. Smith, 7th St., for house 1812 16th St. N.W., bought of Wm. Muirhead.

$\frac{1}{4}$ ton W. C. S. coal $1 70

Rec'd payment,

M. MUIRHEAD.
JOHN MITCHELL.

1122*c* Folio 169. Subsc. No. 18551.

Water Rents for Year Ending December 31st, 1881.

M-. F. H. Smith, ag't, to the District of Columbia, Dr.

No. 1808 16 N. W.; stories, 3; front feet, 15; from Dec. 1st, 1881, to January 1st, 1882 ..... .37

Received payment,

JOHN F. COOK,
Collector of Taxes.

Paid Nov. 26, 1881.

1122*d* Folio 169. Subsc. No. 18552.

Water Rents for Year Ending December 31st, 1881.

M-. F. H. Smith & Son, agents, to the District of Columbia, Dr.

No. 1812 16 — N.W.; stories, 3; front feet, 15; from Dec. 1st, 1881, to January 1st, 1882 ..... .37

Received payment,

JOHN F. COOK,
Collector of Taxes.

Paid Nov. 26, 1881.

1122*e* Folio 169. Subsc. No. 18553.

Water Rents for Year Ending December 31st, 1881.

M-. F. H. Smith & Son, agents, to the District of Columbia, Dr.

No. 1814 16 — N.W.; stories, 3; front feet, 15; from Dec. 1st, 1881, to January 1st, 1882 ..... .37

Received payment,

JOHN F. COOK,
Collector of Taxes.

Paid Nov. 26, 1881.

1122*f* Folio 169. Subsc. No. 18554.

Water Rents for Year Ending December 31st, 1881.

M-. F. H. Smith & Son, agents, to the District of Columbia, Dr.

No. 1816 16 — N.W.; stories, 3; front feet, 15; from Dec. 1st, 1881, to January 1st, 1882 ..... .37

Received payment,

JOHN F. COOK,
Collector of Taxes.

Paid Nov. 26, 1881.

1122*g* $16.00. Received of F. H. Smith & Son the sum of sixteen $\frac{00}{100}$ dollars, being in full for services for 2 weeks to date as watchman of houses cor. 16th & S Sts. N.W.
Washington, D. C., Nov. 28th, 1881.

J. D. HUTTON.

1122*h* $6.00. Received of F. H. Smith & Son the sum of six $\frac{00}{100}$ dollars, being for painting work on houses cor. 16th & S Sts., Nos. 1808, '12, & '14.
Washington, D. C., Nov. 26, 1881.

his
GEO. x SANDERS.
mark.

Witness:
F. B. SMITH.

1122*i* $6.00. Received of F. H. Smith & Son the sum of six $\frac{00}{100}$ dollars, being — painting 1808, '12, '14 16th St.
Washington, D. C., Nov. 26, 1881.

HENRY A. GRANT.

1122*j* $3.00. Received of F. H. Smith & Son the sum of three $\frac{00}{100}$ dollars, being in full for cleaning walls, &c., 1808, 1814, & 1816 16th N.W.
Washington, D. C., Nov. 26, 1881.

WASHINGTON LEWIS.

1122*k* $9.00. Received of F. H. Smith & Son the sum of nine $\frac{00}{100}$ dollars, being in full for painting to date 1808, '12, '14, '16 16th N.W.
Washington, D. C., Nov. 26, 1881.

ROBERT REED.

1122*l* $9.00. Received of F. H. Smith & Son the sum of nine $\frac{00}{100}$ dollars, being in full to date — painting 1808, '12, '14, '16 16th N.W.
Washington, D. C., Nov. 26, 1881.

his
H. x TAYLOR.
mark.

Witness:
F. B. SMITH.

1122*m* $12.00. Received of F. H. Smith & Son the sum of twelve $\frac{00}{100}$ dollars, being in full to date — painting 1808, '12, & '14 16th St.
Washington, D. C., Nov. 26, 188–.

CHAS. WHELER.

1122*n* $9.00. Received of F. H. Smith & Son the sum of nine $\frac{00}{100}$ dollars, being in full to date — painting 16th St. houses.
Washington, D. C., Nov. 26th, 1881.

JAS. LYNCH.

1122*o* $9.00. Received of F. H. Smith & Son the sum of nine $\frac{00}{100}$ dollars, being in full for painting 1808, 1812, 1814 16th St.
Washington, D. C., Nov. 26, 1881.

JOHN MARSHALL.

1122*p* $17.00. Received of F. H. Smith & Son the sum of seventeen $\frac{00}{100}$ dollars, being ac. for painting outside of houses (front & back) 1808, '10, '12, '14, '16, & '18 16th N. W.
Washington, D. C., Nov. 26, 1881.

S. B. MOTEN.

1122*q* $150.00. Received of F. H. Smith & Son the sum of one hundred and fifty $\frac{00}{100}$ dollars, being ac. contract for brick-work for houses 1800, 1802, 1804, & 1806 16th St. N. W.
Washington, D. C., November 25, 1881.

A. L. HUTTON.

1122*r* $5.79. Received of F. H. Smith & Son the sum of five $\frac{79}{100}$ dollars, being for graining in houses 1822 16th St. N. W.
Washington, D. C., Nov. 26, 1881.

J. G. WHITING.

1122*s* WASHINGTON, D. C., *Nov.* 26, 1881.

Mess. F. H. Smith & Son bought of Edward Caverly & Co.

To hanging gas fixtures at 1808, 1812, 1814, & 1816 16th N. W., @ 28.25 per house, per contract	113	
½ day, man & help tight-ing 1814	2 50	
		115 50

Rec'd payment,

EDW'D CAVERLY & CO.

Nov. 26, '81.

Approved.
E. J. SWEET.

1122*t* $135.77. Received of F. H. Smith & Son the sum of one hundred & thirty-five $\frac{77}{100}$ dollars, being carpenter's pay-roll to date, houses 1600, 1602, 1604, 1606 16th N. W.
Washington, D. C., Nov. 26, 1881.

I. H. GIBBONS.

1122*u* $50.00. Received of F. H. Smith & Son the sum of fifty $\frac{00}{100}$ dollars, being ac. plastering in 1806 16th St. N. W.
Washington, D. C., Nov. 26, 1881.

G. L. DU PONT.

1122*v* $27.00. Received of F. H. Smith & Son the sum of twenty-seven $\frac{00}{100}$ dollars, being for brick-work in full to date on 1607, 1609, 1113 S St. N. W.
Washington, D. C., Nov. 26, 1881.

I. N. ROLLINS,
By D. D. THOMPSON.

1122*w* 75.00. Received of F. H. Smith & Son the sum of seventy-five $\frac{00}{100}$ dollars, being ac. contract carpenter work on 1607, 1609, 1611, 1613 S St. N. W.

Washington, D. C., Nov. 26th, 1881.

D. D. THOMPSON.

1122*x* $125.00. Received of F. H. Smith & Son the sum of one hundred and twenty-five $\frac{00}{100}$ dollars, being ac. contract for plastering 1607, '9, '11, & '13 S St. N. W.

Washington, D. C., Nov. 26, 1881.

THOS. H. LYNCH.

1122*y* WASHINGTON, D. C., *Nov. 26th*, 1881.

Messrs. Smith & Son to H. Haight, Dr.

To furnishing & glazing 59 small l'ts glass	7	37
" " " " 10 lots enamel glass	7	50
" " " " 2 " 14 x 32	1	00
" " " " 4 " 10 x 26		96
	16	83

Rec'd payment,

HORACE HAIGHT.

O. K.
E. J. SWEET.

1122*z* WASHINGTON, D. C., *Nov. 23rd*, 1881.

Mr. F. H. Smith & Son to John Kennedy, Dr.

To putting on tin roofs, 15 squares, 98 ft., @ $6.00 per square	95	78
90 ft. vall-y gutter @ 8c. per square ft.	7	20
4 window heads @ 50c. each	2	00
106 ft. gutter @ 15c. per ft.	15	90
154 ft. spouting @ 15c. per ft.	23	10
8 elbows @ 15c. each	1	20
Cutting off part 3 roofes	14	00
Repairing the old roofes	19	00
	$178	18
By cash	75	60
	102	58

Rec'd payment,

JOHN KENNEDY.

Approved.
E. J. SWEET.

1122*aa* Nov. 22, 1881.

Mr. F. H. Smith & Son, No. 1808 16 St. N. W., to the Washington Gas Light Company, Dr.

For use of 35 feet of 1-inch service pipe and laying same @ 25 cents per foot	8 75
For connection, stop-cock, &c., for 1 5-l't meter	2
2 1-inch bends @ 15c. each	30
	$11 05

Received payment for the company.

W. B. ORMES.

Washington, D. C., Nov. 23, 1881.

1122*ab* Nov. 22, 1881.

Mr. F. H. Smith & Son, No. 1812 16 St. N. W., to the Washington Gas Light Company, Dr.

For use of 35 feet of 1-inch service pipe and laying same @ 25 cents p'r foot	8 75
For connection, stop-cock, &c., for 1 5-l't meter	2
2 1-inch bends @ 15c. each	30
	$11 05

Received payment for the company.

W. B. ORMES.

Washington, D. C., Nov. 23, 1881.

1122*ac* Nov. 22, 1881.

Mr. F. H. Smith & Son, No. 1814 16 St. N. W., to the Washington Gas Light Company, Dr.

For use of 35 feet of 1-inch service pipe and laying same @ 25 cents p'r foot	8 75
For connection, stop-cock, etc., for 1 5-l't meter	2
2 1-inch bends @ 15c. each	30
	$11 05

Received payment for the company.

W. B. ORMES.

Washington, D. C., Nov. 23, 1881.

1122*ad* Nov. 22, 1881.

Mr. F. H. Smith & Son, No. 1816 16 St. N. W., to the Washington Gas Light Company, Dr.

For use of 35 feet of 1-inch service pipe and laying same @ 25 cents p'r foot	8 75
For connection, stop-cock, &c., for 1 5-l't meter	2
2 1-inch bends @ 15c. each	30
	$11 05

Received payment for the company.

W. B. ORMES.

Washington, D. C., Nov. 23, 1881.

1122*ae* $2.50. Received of F. H. Smith & Son the sum of two $\frac{50}{100}$ dollars, being for grading back yards to S St. houses.
Washington, D. C., Nov. 21, 1881.

HENRY CORBEN.

1123 In ac. with Mass. Mutual Life Ins. Co., Springfield, Mass.

Nov. 30TH, 1881.

1881.				
Nov. 19.	By bal. as per statement of this date			102 19
23.	" N. Y. d'ft, to be used for taxes			3,721 28
23.	" do. to be used on houses			2,500 00
28.	" rent 1818 16th St. N. W.			20 00
29.	" do. 1810 " " "			20 45
30.	" do. 1603 S " "			20 50
30.	" do. 1605 " " "			10 00
30.	" do. 1820 16th " "			7 50
Nov. 19.	To grading back yards, S St. houses	2 50		
21.	" city gas Co., 1808, '12, '14, '16 16th St	44 20		
23.	" tin-work	102 58		
26.	" glazing 1808, '12, '14, '16, '22, 16th St.	16 83		
26.	" plastering 1607, '9, '11, '13 S St.	125 00		
26.	" ac. carpenter " " S St.	75 00		
26.	" brick-work " " "	27 00		
26.	" ac. plastering 1806 16th St	50 00		
26.	" carpenters, 1800, '02, '04, '06 16th St.	135 77		
26.	" gas fixtures, 1808, '12, '14, '16 16th St.	115 50		
26.	" graining 1822 16th St.	5 79		
26.	" brick-work, 1800, '02, '04, '06, 16th St.	150 00		
26.	" ac. outside painting 1808, '10, '12, '14, '16, '18 16th St.	17 00		
26.	" inside painting	63 00		
28.	" watchman to date	16 00		
1123½				
28.	" water rent to Jan'y 1, '82, 1808, '12, '14, '16 16th St	1 50		
30.	" coal for use of workmen	1 70		
30.	" ac. plumbing contract	400 00		
30.	" commission, 10 % on $2,500	250 00		
30.	" do. 5 % on $78.45, rents	4 00		
	Balance to your credit	4,798 55		
		6,401 92		6,401 92

18 vouchers herewith.

F. H. SMITH & SON.

[On margin:] Vouchers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18.

[Endorsed:] F. H. Smith & Son. #5. Nov. 30, '81.

1124 In ac. with Mass. Mut. Life Ins. Co., Springfield, Mass.

DEC. 7, 1881.

1881.			
Nov. 30.	By bal. as per ac. rendered	------	$4,798 55
Dec. 5.	" rent of house cor. 2d St. & Mass. Ave.	------	25 45
6.	By N. Y. d'ft, to be applied on houses	------	2,500 00
Nov. 30.	To taxes, see vouchers	3,194 96	
Dec. 1.	" sills, stone, doors, & windows, 1800 16th St.	54 20	
3.	To bal. due for latrobes & grates, 1808, '12, '14, '16 16th St.	34 00	
3.	" brick-work, 1800 16th St. N. W.	250 00	
3.	" hardware, 16th & S Sts.	49 20	
3.	" plastering, 1607, '9, '11, '13 S St.	150 00	
3.	" sodding front y'ds, 1808, '10, '12 16th St.	19 30	
3.	" carpenters, 1607, '9, '11, '13 S St.	150 00	
3.	" brick-work, " "	25 87	
3.	" tax, sp'l imp't, cor. 2d & Mass. Ave., Archer loan	55 24	
3.	" carpenters, 1800, '2, '4, '6 16th St. N. W.	191 75	
3.	" graining, 1812 16th St.	2 50	
3.	" paint for 16th St. houses	47 88	
3.	" painters' pay-roll	31 50	
5.	" latrobes & gas fix. for 1820 16th St.	88 25	
6.	" commission, 10 %, on $2,500	250 00	
6.	" commission, 5 %, rents, $25.45	1 25	
6.	" balance to your credit	2,728 10	
		$7,324 00	$7,324 00

15 vouchers herewith.

[On margin:] Vouchers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15.

1124*a* WASHINGTON, D. C., *Nov.* 18*th*, 1881.

Messrs. F. H. Smith & Son to Sayers & Co., Dr.

To furnishing the following window sills for house cor. 16th & S street N. W.:

14 sills,	3′ 0½″	long	42′ 7″
18 "	2 7	"	46 6
	1 7	"	9 6
			98 7 at 55c., $54.20

Rec'd payment,
Above correct.
O. K.

SAYERS & CO.
I. H. GIBBONS.
E. J. S.

1124*b* WASHINGTON, D. C., *Nov. 19th*, 1881.

Mess. F. H. Smith & Son, for ac. of Mass. M. Life Ins. Co., bought of Edward Caverly & Co.

To furnishing & setting 8 Sunlight heaters, @ 30.00, as per contract	240
To 4 No. 2 Paragon ranges, @ 23.00, as per contract	92
8 extra lengths stove pipe, .25	2 00
	334

For 1808, 1812, 1814, & 1816 16th St.
Rec'd payment, by cash, 200.
Nov. 19, do., 100.
Rec'd payment in full Dec. 3, '81.

EDW'D CAVERLY & CO.

1124*c* $250.00. Received of F. H. Smith & Son the sum of two hundred & fifty $\frac{00}{100}$ dollars, being ac. contract for brick-work on houses 1800, 1802, 1804, & 1806 16th St. N. W.
Washington, D. C., Dec. 3, 1881.

A. L. HUTTON.

1124*d* WASHINGTON, D. C., *Nov.* 30, 1881.

Messrs. F. H. Smith and Son bought of Frank P. May & Co.

Nov. 1.	3 closet locks, .20		60
	3 lbs. sash cord, .25		75
2.	14 w'ts, $4\frac{1}{2}$ lbs. each, .63 14 " 4 " " .56	119 lbs., @ $1\frac{1}{2}$	1 79
	3 lbs. jute sash cords, .25		75
3.	1 doz. pair 2 x 2 butts		65
	1 gro. 1 x 10 screws		35
	1 doz. buttons		15
	2 keepers		20
	1 bolt		20
8.	4 wall anchors		2 00
	1 gro. 1 x 8 screws		35
	25 lbs. 10d. nails, 5		1 25
9.	2 lbs. sash cord, .35		70
	4 pulleys		20
10.	1 keg 8d. nails		3 65
	1 " 10d. "		3 40
11.	2 (iron) bench screws, 1.00		2 00
14.	12 sets # $1\frac{1}{2}$ L. & P. hinges, complete		3 25
16.	1 grindstone, complete		3 50
	$5\frac{3}{8}$ lbs. 48 roll M, .15		87
21.	30 lbs. fin. nails, .6		1 80
23.	8 pair brackets, .40		3 20
	1 keg 8d. nails		3 65
1124*e*	1 " 10d. "		3 40

	5 pair 8-in. strap hinges & screws, .20	1 00	
	6 " 3 x 3 butts, .10	60	
	1 gro. 1¼ screws	35	
25.	Gro. ⅝ x 7 screws	20	
	½ doz. sash locks	50	
	6 doz. shutt. bars	2 40	
	6 " coat hooks	90	
	1 rim lock	30	
	1 pair butts	10	
	1 padlock	25	
	Am't over		45 26
1881.	Am't forw'd		45 26
Nov. 30.	1 lock & knob	35	
	1 doz. porc. knobs	30	
	1 " buttons & screws	20	
	1 padlock	35	
	1 hasp & staple	10	
	16½ lbs. manilla rope	2 64	
			3 94
			$49 20

Dec. 3, 1881.
Rec'd pay't, F. P. MAY & CO.

Approved: I. H. GIBBONS.
O. K. E. J. S.

1124*f* $150.00. Received of F. H. Smith & Son the sum of one hundred & fifty $\frac{00}{100}$ dollars, being ac. contract for plastering 1607, '9, '11, & '13 S St. N. W.
Washington, D. C., Dec. 3, 1881.

THOS. H. LYNCH.

1124*g* $19.30. Received of F. H. Smith & Son the sum of nineteen $\frac{30}{100}$ dollars, being in full for sodding yards of 1808, 1810, & 1812 & laying walk to 1808 16th St.
Washington, D. C., Dec. 3, 1881.

his
BEN. x QUALLS.
mark.

Witness:
F. B. S.

1124*h* $150.00. Received of F. H. Smith & Son the sum of one hundred & fifty $\frac{00}{100}$ dollars, being ac. carpenters' contract, houses 1607, '9, '11, '13 S St. N. W.
Washington, D. C., Dec. 3, 1881.

D. D. THOMPSON.

1124*i* $25.87. Received of F. H. Smith & Son the sum of twenty-five $\frac{87}{100}$ dollars, being for brick-work on houses 1607, '9, '11, '13 S St. N. W.
Washington, D. C., Dec. 3, 1881.

D. D. THOMPSON,
For BRICK MASON.

1124*j* $191.75. Received of F. H. Smith & Son the sum of one hundred & ninety-one $\frac{75}{100}$ dollars, being carpenters' pay-roll to date, houses 1800, 1802, '04, '06 16th St.
Washington, D. C., Dec. 3, 1881.

I. H. GIBBONS.

1124*k* $2.50. Received of F. H. Smith & Son the sum of two $\frac{50}{100}$ dollars, being for graining in house 1812 16th St.
Washington, D. C., Dec. 3rd, 1881.

C. E. LEASE.

1124*l* WASHINGTON, D. C., *Dec.* 1, 1881.

Mess. F. H. Smith & Son bought of G. W. Rearden.

Nov. —.	To am't of bill as per order for S. B. Mohun		21 00
22.	" 2 gall. b. oil, 1.60; 2 gall. r. oil, 1.50; 1 gall. turps., .65	3 75	
	" 1 gall. h. o. fin., 1.75; 1 qt. dyers, .25	2 00	
	" 2 brushes, 1.50; " " .25; 2 S. tooles, .60	2 35	
	" 5 lb umber, .50; 2 gall. h. o. fin., 3.50	4 00	
	" 25 lb L. lead, 2.15; (23) ½ gall. r. oil, .38	2 53	
	" 1 gall. turps., .65; 1 pt. dyers, .15; 1 brush, .65	1 45	
	" 5 lb ochre, .25; 1 gall. turps., .65; 1 lb Ven. red, .10	1 00	
	" 1 gall. h. o. fin., 1.75; (25) 1 lb b't s-enne, .20	1 95	
25.	" 1 lb walnut, .20; (26) 1 pt. dyers, .15	35	
26.	" 1 gall. h. o. fin., 1.75; 1 qt. do., .25	2 00	
	" 1 " turps., .65; (29) 2 gall. b. oil, 1.60	2 25	
29.	" ½ turps., .33; 4 lb walnut, .80; 2 lb b't sienne, .40	1 53	
	" 1 lb Vandyke, .20; 1 pt. dyers, .15	35	
	" 1 lb umber; 2 fitchs, .30	40	
			25 13
Dec. 2.	"		46 13
	1 gall. h. o. fin.		1 75
			47 88

Rec'd payment,

GEO. W. REARDEN & CO.

1124*m* WASHINGTON, D. C., *Dec.* 3, 1881.

Rec'd of F. H. Smith & Son the amounts set opposite our names as payment in full to date for work as painters, &c., houses cor. 16th & S streets N. W.:

Henry Taylor	10 50
Robert Reed	9 00
Henry A. Grant	6 00
George his x mark. Sanders; witness, F. B. Smith	6 00
	$31 50

1124*n* WASHINGTON, D. C., *Dec.* 6, 1881.

Mass. Mutual Life Ins. Co. bought of Edward Caverly & Co.

Setting two latrobes @ 1820 16th N. W.	60 00
Bill of gas fixtures for same place	28 25
	88 25

Rec'd payment Dec. 7, 1881.

EDW'D CAVERLY & CO.

1124*o* Book 5, folio 23. Revised.

Office of the Commissioners, District of Columbia, special assessment division.

WASHINGTON, D. C., *Nov.* 18, 1881.

John B. Archer:

You are hereby notified that S. lot No. 14, square No. 722, in —, has been assessed for special improvements, said lot fronting $57\frac{5\frac{19}{28}}{12}$ feet on 2d St., Md. Ave. to G—

	Rate per front foot.	
		99 25
	11 40	
My drawback	49 62	61 02
		38 23
Interest from June 18, 1877, @ 10%		17 01
Nov. 30, 1881		55 24

Paid Nov. 30, 1881.

R. Nov. 18, '81.

R. Nov. 29, '81.

Received payment of Allen C. Clark & Company.

JOHN F. COOK,
Collector of Taxes.

J. W. C.

1124*p* *Taxes.*

WASHINGTON, D. C., *Dec. 7th*, 1881.

Voucher No. 1 comprises—

No. 1.	Sent to N. Y., 1st Nat'l bank, for rebate	870	79
2.	Herewith	88	43
3.	Do.	43	63
4.	Do.	43	57
5.	Do.	93	14
6.	Do.	274	80
7.	Do.	142	02
8.	Do.	137	70
9.	Do.	30	46
10.	Do.	56	88
11.	Do.	28	23
12.	Do.	162	92
13.	Do.	137	68
14.	Do.	248	15
15.	Do.	462	73
16.	Do.	373	83
		$3,194	96

1124*q* Washington city. Folio 188.

William R. Hooper to the District of Columbia, Dr.

For tax on real estate for the year ending June 30, 1882.

Square.	Lot.	Value of lot.	Value of imp's.
177	S. 18	$269	$1,200
	" 19	255	1,200
	" 20	255	1,200
	" 21	255	1,200
	" 22	255	1,200
	" 23	255	1,200
	of " 24	58	
	" 80	160	
	" 81	160	
	" 82	160	
	" 83	160	
	" 84	160	
	" 85	160	
	" 86	158	
	" 89	290	1,600
	" 90	290	1,600
	" 91	290	1,600
	" 92	290	1,600
	" 93	290	1,600
	" 94	290	1,600
	" 95	290	1,600
	" 96	290	1,600
	" 97	290	
	" 98	290	
	" 99	290	
	" 100	320	
			26,230

[Written across the face:] By check of F. H. Smith & Son.

S. & S.

To all of tax	$393 45
To penalty, 5% *per cent.*	19 62
	$373 83

Received payment,

JOHN F. COOK, *Collector.*

Paid.
H.

1124*r* 1881.

DISTRICT OF COLUMBIA, *Dec.* 1, 1881.

Items of Sale.

To all of tax for year ending June 30, 1881	$393 45
To penalty, 14 %	55 08
To advertising, 1881, 25 lots	5 00
To auctioneer's fee	1 25
Amount sold for	$454 78

[Written across face:] By check of F. H. Smith & Son.

1881 tax book, page 251.

Sublots 18 to 23, p't 24, square No. 177; 80 to 86 and 89 to 100, inclusive.

To amount sold for at sale for taxes, September, in name of Robert A. Balloch	$454 78
Interest at the rate of ten per cent. per annum from day of sale to redemption, Dec. 1st, 1881	7 95
Amount required to redeem Dec. 1, '81	$462 73

Received payment,

JOHN F. COOK, *Collector.*

Paid Nov., 1881.

E. W. W. G.

1124*s* 1880.

DISTRICT OF COLUMBIA, *Dec.* 1, 1881.

Items of Sale.

To all of tax for year ending June 30, 1880	$189 45
To penalty, 14 %	26 52
To advertising, 1880	5 00
To auctioneer's fee, 25 lots	1 25
Amount sold for	$222 22

[Written across face:] By check of F. H. Smith & Son.

1880 tax book, page 236.

Sublots 18 to 23, p't 24, square No. 177; 80 to 86 and 89 to 100, inclusive.

To amount sold for at sale for taxes, October 1, 1880, assessed in name of Robert A. Balloch	222 22
Interest at the rate of ten per cent. per annum from day of sale to date of redemption, Dec. 1st, 1881	25 93
Amount required to redeem Dec. 1, '81	$248 15

Received payment,

JOHN F. COOK, *Collector.*

Paid.

E. W. W. G.

1124*t*

1879.

Treasurer and assessor's office.

DISTRICT OF COLUMBIA.

Items of Sale.

To all of tax for year ending June 30, 1879	$92 66
To penalty	16 67
To advertising, 1879	4 20
To auctioneer's fee	1 05
Amount sold for	$114 58

[Written across face:] By check of F. H. Smith & Son.

1879 tax book, page 23.

Sublots 17 to 29 & 49 to 56, square No. 177.

To amount sold for at sale for taxes, Nov. 25, 1879, assessed in name of John George Adams	$114 58
Interest at the rate of ten per cent. per annum from day of sale to date of redemption	23 10
Amount required to redeem Dec. 1, '81	$137 68

Received payment,

JOHN F. COOK, *Collector.*

Paid.

F.

1124*u* 1878.

Treasurer and assessor's office.

DISTRICT OF COLUMBIA.

Items of Sale.

To all of tax for year ending June 30, 1878	$108 48
To penalty	13 02
To advertising, 1878	80
To auctioneer's fee	20
Amount sold for	$122 50

[Written across face:] By check of F. H. Smith & Son.

1878 tax book, page 20.

Lot- 1, 2, 3, & 4, square No. 177.

To amount sold for at sale for taxes, August 13, 1878, assessed in name of John George Adams	$122 50
Interest at the rate of ten per cent. per annum from day of sale to date of redemption	40 42
Amount required to redeem Dec. 1, '81	$162 92

Received payment,

JOHN F. COOK, *Collector.*

Paid.
F.

1124*v* No. 212, vol. 2.

Water registrar's office.

DISTRICT OF COLUMBIA, *Nov.* 29, 1881.

Advertised Water-Main Tax.

To 4 of tax for water main	$20 63
To interest at 6 per cent. from Jan. 10, '77, to Oct. 1, '80	4 95
To advertising, 1880	20
To auctioneer's fee	05
Amount sold for	$25 83

[Written across face:] By check of F. H. Smith & Son.

Book 8, page 12.

Lot 16, square 177.

To amount sold for at sale for taxes assessed in name of J. G. Adams	$25 83
Interest at the rate of 10 per cent. per annum from day of sale to date of redemption	2 40
Amount required to redeem	$28 23

Received payment,

JOHN F. COOK, *Collector.*

1124*w* No. 211, vol. 2.

Water registrar's office.

DISTRICT OF COLUMBIA, *Nov.* 29, 1881.

Advertised Water-Main Tax.

To 2 & 3 of tax for water main	$41 25
To interest at 6 per cent. from Jan. 15, '77, to Nov. 25, '79	7 08
To advertising, 1879	20
To auctioneer's fee	05
Amount sold for	$48 58

[Written across face:] By check of F. H. Smith & Son.

Book 8, page 12.

Lot 16, square No. 177.

To amount sold for at sale for taxes assessed in name of J. G. Adams	$48 58
Interest at the rate of 10 per cent. per annum from day of sale to date of redemption	8 30
Amount required to redeem	$56 88

Received payment,

JOHN F. COOK, *Collector.*

Paid.

1124*x* No. 210, vol. 2.

Water registrar's office.

DISTRICT OF COLUMBIA, *Nov.* 29, 1881.

Advertised Water-Main Tax.

To 1 of tax for water main	$20 63
To interest at 6 per cent. from Jan. 15, '77, to Aug. 14, '77	72
To advertising, 1877	21
To auctioneer's fee	05
Amount sold for	$21 61

[Written across face:] By check of F. H. Smith & Son.

Book 8, page 12.

Lot 16, square No. 177.

To amount sold for at sale for taxes assessed in name of J. G. Adams	$21 61
Interest at the rate of 10 per cent. per annum from day of sale to date of redemption	8 85
Amount required to redeem	30 46

Received payment,

JOHN F. COOK, *Collector.*

Paid.

1124*y* No. 215, vol. 2.

Water registrar's office.

DISTRICT OF COLUMBIA, *Nov.* 29, 1881.

Advertised Water-Main Tax.

To 4 of tax for water main	$82 50
To interest at 6 per cent. from Oct. 24, '73, to Aug. 14, '77	18 95
To advertising, 1877	70
To auctioneer's fee	15
Amount sold for	$102 30

[Written across face:] By check of F. H. Smith & Son.

Book 8, page 12.

Lots 1, 2, 3, square No. 177.

To amount sold for at sale for taxes assessed in name of J. G. Adams	$102 30
Interest at the rate of 10 per cent. per annum from day of sale to date of redemption	35 40
Amount required to redeem	$137 70

Received payment,

JOHN F. COOK, *Collector.*

Paid.

1124*z* No. 214, vol. 2.

Water registrar's office.

DISTRICT OF COLUMBIA, *Nov.* 29, 1881.

Advertised Water-Main Tax.

To 3 of tax for water main	$82 50
To interest at 6 per cent. from Oct. 24, '73, to June 11, '76	12 99
To advertising, 1876	1 35
To auctioneer's fees	15
Amount sold for	$96 99

[Written across face:] By check of F. H. Smith & Son.

Book 8, page 12.

Lots 1, 2, 3, square No. 177.

To amount sold for at sale for taxes assessed in name of J. G. Adams	$96 99
Interest at the rate of 10 per cent. per annum from day of sale to date of redemption	45 03
Amount required to redeem	$142 02

Received payment,

JOHN F. COOK, *Collector.*

Paid.

1124*aa* No. 213, vol. 2.

Water registrar's office.

DISTRICT OF COLUMBIA, *Nov.* 29, 1881.

Advertised Water-Main Tax.

To ½ of tax for water main	$165 01
To interest at 6 per cent. from Oct. 24, '73, to June 29, '75	16 10
To advertising, 1875	7 56
To auctioneer's fee	15
Amount sold for	$188 82

[Written across face:] By check of F. H. Smith & Son.

Book 8, page No. 12.

Lots 1, 2, 3, square 177.

To amount sold for at sale for taxes assessed in name of J. G. Adams	$188 82
Interest at the rate of 10 per cent. per annum from day of sale to date of redemption	85 98
Amount required to redeem	$274 80

Received payment,

JOHN F. COOK, *Collector.*

Paid.

1124*ab* Peris, Book 12, page 46.

John George Adams to Washington Corporation, Dr.

To balance of tax for footway	$45 07
To interest at ten per cent. from May 31st, 1871, to Dec. 1, '81	47 32
To advertising & auction	75
	$93 14

Square 177, lots 1, 2, 3.

Received payment,

JOHN F. COOK, *Collector.*

Paid.

[Written across face:] By check of F. H. Smith & Son.

1124*ac* O. K.
Book 7, 4,
folio 201, 68. Old.

Office of the Commissioners, District of Columbia, special assessment division.

WASHINGTON, D. C., *Nov.* 1, 1881.

Jno. Geo. Adams:

You are hereby notified that lot No. 3, square 177, in Washington, D. C., has been assessed for special improvements, said lot fronting $61\frac{6}{12}$ feet on S street, 16 to B'd'ry.

Paid.

	30 30
Interest 10% from July 12, 1877	13 27
	43 57

R. Nov. 29, '81.
Nov. 29, 1881.

Received payment of Allen C. Clark in drawbacks.

JOHN F. COOK,
Collector of Taxes.

J. W. C.

1124*ad* O. K.
Book 7, 4,
folio 201, 68. Old.

Office of the Commissioners, District of Columbia, special assessment division.

WASHINGTON, D. C., *Nov.* 1, 1881.

Jno. Geo. Adams:

You are hereby notified that lot No. 2, square No. 177, in Wash-

ington, D. C., has been assessed for special improvements, said lot fronting $61\frac{7}{12}$ feet on S street, 16 to B'd'ry.

	30 34
Interest 10% from July 12, 1877	13 29
	43 63

Paid.

R. Nov. 29, '81.
Nov. 29, 1881.

Received payment of Allen C. Clark in drawbacks.

JOHN F. COOK,
Collector of Taxes.

J. W. C.

1124*ae* Book 7, 4,
folio 201, 68. Revised.

Office of the Commissioners, District of Columbia, special assessment division.

WASHINGTON, D. C., *Nov.* —, 1881.

Jno. George Adams:

You are hereby notified that lot No. 1, square No. 177, in Washington, D. C., has been assessed for special improvements, said lot fronting 90 feet on S street, 16 to B'd'ry.

Trees	88 43

No interest.

R. Nov. 29, '81.
November 29, 1881.

Paid.

Received payment of Allen C. Clark in coupons & obbs.

JOHN F. COOK,
Collector of Taxes.

J. W. C.

1124*af* O. K.
Book 1, 1,
folio 243, 312. Revised.

Office of the Commissioners, District of Columbia, special assessment division.

WASHINGTON, D. C., *November* 1, 1881.

Jno. G. Adams:

You are hereby notified that lot No. 16, square No. 177, in Wash-

ington, D. C., has been assessed for special improvements, said lot fronting $62\frac{6}{12}$ feet on 16th street, N to B'd'ry.
Costs, $7.15.

		453 82
Interest 10% from Nov. 18, 1872		409 82
		863 64

Nov. 29, 1881.
R. Nov. 29, '81.

Received payment of Allen C. Clark in bonds, coupons, & drawbacks.

JOHN F. COOK,
Collector of Taxes.

[Endorsed:] F. H. Smith & Son. Report #6.

1125 In ac. with Mass. Mutual Life Ins. Co.

DEC. 12TH, 1881.

1881.				
Dec. 7.	By bal. as per statement sent			$2,728 10
7.	To whitewashing kitchen, &c., 1822 16th St.		1 25	
8.	" hardware, 16th & S		25 96	
8.	" keys for "		11 40	
8.	" cement, "		3 28	
8.	" lumber, "		350 41	
10.	" plastering 1607, '9, '11, '13 S St.		175 00	
10.	" gas fixtures, range, & latrobes, 1822 16th		111 25	
10.	" papering		20 50	
10.	" brick-work, 1800, '02, '04, '06		200 00	
10.	" carpenters, 1607, '9, '11, '13 S St.		175 00	
10.	" plastering 1800, '02, '04, '06 16th		200 00	
10.	" carpenters, " " "		216 13	
10.	" brick-work, 1607, '9, '11, '13 S St.		27 00	
10.	" painters, 16th-St. houses		24 00	
10.	" paint'g roofs, "		15 00	
12.	" watchman, 2 weeks to date		16 00	
12.	" balance to your credit		1,155 92	
			2,728 10	2,728 10

16 vouchers herewith.
$25.67 of items # 5 and # 12 should be ch'g'd to house 1414 -6th St. The kitchen floor, which had rotted badly, caved in & had to be replaced, both beams & flooring.

[On margin:] Vouchers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16.

1125*a* WASHINGTON, D. C., *Nov.* 22, 1881.

Mr. F. H. Smith & Son bought of J. T. Walker's Sons.

1 bbl. cement, R. top 1 50

Rec'd payment,

J. T. WALKER'S SONS.

Received by—
ROLLINS.

1125*b* WASHINGTON, D. C., *Nov.* 14, 1881.

Mr. Frank H. Smith & Son bought of J. T. Walker's Sons.

1 bbl. R. top 1 75

This bill is correct.

A. L. HUTTON.

P'd Dec. 5, '81.

F. H. SMITH & SON.

1125*c* $16.00. Received of F. H. Smith & Son the sum of sixteen $\frac{00}{100}$ dollars, being for services as watchman for two weeks to date, houses corner 16th & S streets N. W.
Washington, D. C., Dec. 12, 1881.

J. D. HUTTON.

1125*d* $15.00. Received of F. H. Smith & Son the sum of fifteen $\frac{00}{100}$ dollars, being ac. painting roof 16th-St. houses.
Washington, D. C., December 10th, 1881.

SYLVESTER B. MOTEN.

1125*e* $24.00. Received of F. H. Smith and Son the sum of twenty-four $\frac{00}{100}$ dollars, being for painting on houses cor. 16th & S N. W.
Washington, D. C., December 10th, 1881.

HENRY A. GRANT.
HENRY TAYLOR.
J. SANDERS.

1125*f* $27.00. Received of F. H. Smith & Son the sum of twenty-seven $\frac{00}{100}$ dollars, being for brick-work on S St. houses.
Washington, D. C., Dec. 10, 1881.

B. SCRIVENER,
Per GIBBONS.

1125*g* $216.13. Received of F. H. Smith & Son the sum of two hundred & sixten $\frac{13}{100}$ dollars, being for carpenters' pay-roll for houses 1800, '2, '4, '6 16th St.
Washington, D. C., Dec. 10, 1881.

J. H. GIBBONS.

1125*h* $200.00. Received of F. H. Smith & Son the sum of two hundred $\frac{00}{100}$ dollars, being ac. contract plastering 1800, '02, '04, '06 16th St. N. W.
Washington, D. C., Dec. 10, 1881.

G. H. DU PONT.

1125*i* $175.00. Received of F. H. Smith & Son the sum of one hundred & seventy-five $\frac{00}{100}$ dollars, being ac. carpenters' work, houses 1607, '9, '11, '13 S St. N. W.
Washington, D. C., Dec. 10, 1881.

D. D. THOMPSON.

1125*j* $200.00. Received of F. H. Smith & Son the sum of two hundred $\frac{00}{100}$ dollars, being ac. brick-work on 1800, 1802, 1804, 1806 16th St.
Washington, D. C., Dec. 10th, 1881.

A. L. HUTTON.

1125*k* $1.25. Received of F. H. Smith & Son the sum of one $\frac{25}{100}$ dollars, being in full for whitewashing kitchen & dining-room of house 1822 16th St. N. W.
Washington, D. C., Dec. 8, 1881.

ALEXANDER CLAYBORN.

1125*l* $175.00. Received of F. H. Smith & Son the sum of one hundred & seventy-five $\frac{00}{100}$ dollars, being ac. contract for plastering houses 1607, 1609, 1611, 1613 S St.
Washington, D. C., Dec. 10, 1881.

THOS. H. LYNCH.

1125*m* WASHINGTON, D. C., *December 9th*, 1881.

Messrs. F. H. Smith and Son, #515 7 St. N. W., to J. F. Spelshouse, Dr.

1881.				
Dec. 4.	To 12	pieces	gilt paper (parlor) @ .65	7 80
" "	2½	"	border, .40	1 00
" "	14	"	bl'k paper (hall), .30	4 20
" "	4	"	border, .30	1 20
" "	10½	"	bl'k paper (D. R.), .30	3 15
" "	2½	"	border " .30	75
" "	2 top	"	bl'k paper (vestibule), .30	60
" "	½ dado		" .30	15
" "	1 border		" .30	30
" "	sizing, 27 pieces, 5			1 35
				$20 50

Rec'd payment,

J. F. SPELSHOUSE.

O. K.
E. J. SWEET.

1125*n* WASHINGTON, D. C., *Dec. 10th*, 1881.

Mass. Mutual Life Ins. Co. bought of Edward Caverly & Co.

To contract putting in 2 Sunlight latrobes @ 1822 16th St. N. W. @ 30.00 ---------- 60
To contract putting in one No. 2 Paragon range & W. K. B. ---------- 23
Bill of gas fixtures for same houses ---------- 28 25
——— $111 25

Received payment Dec. 10, 1881.
EDW'D CAVERLY & CO.

O. K.
E. J. S.

1125*o* WASHINGTON, D. C., *Dec'r* 1, 1881.

M.- F. H. Smith & Son bought of Bernard Bailey.

Nov. 16. 3 qr. s. paper, .25, .75; 4 B. butts, .80; 4 H. ——, .20; 2 dz. slots, .50; 1 lb glue, .25 ---------- 2 50
17. 1 keg 8d., 3.65; 1 gro. 1″ x 10 scrs., .42 ---------- 4 07
18. 1 gro. scrs., 2 x 10, .49; 1 gro. 1 x 10, .30; 5 lb wht. nails, 10d., .35; 5 fin., 6d., .30 ---------- 1 44
1 thumb latch, .10; 12 bolters & scrs., .15; 1 M. bbl. bull. & ers., .15 ---------- 40
6 br. butts, 3 x 3 ---------- 60
19. 75 lb nails, 20d., 30d., 40d., .04, 3; 6 clos. *lox*, .25, 1.50 ---- 4 50
23. 1 *lx*, .60; pr. pla. heral., .30; 1 pr. pla. escut., .06; 1 pr. acorn *putts* & scr, .15 ---------- 1 11
2 door bolts & scrs., .25; 2 sash *lox*, .10; 1 pr. 2 lb butt, 7 42
24. 1 gr. 1½ x 9 scrs., .38; 4 pr. 2 lb lt. butts & scrs., .28; 1-4″ balls & scrs., .12 ---------- 78
6 nails, .30; 3 lb fin., .18; 1 lb brads, 1½, .10 ---------- 58
26. 7 clos. *lox*, 1.05; 1 rim *lox* & knob, .25; 1 rim cyl. Neal *lox*, 1.25; 4 lbs. x-eyes, .15 ---------- 2 70
10 sheet keats, .30; 4 lb nails, .20; 2 pr. butts & scrs., .15 ---- 65
28. 1 gro. scrs, ⅞, .30; 1 doz. C. & H. hooks, .20; 1 *lox* & knob, .25; 6 sh. s. paper, .10; 2 dr. S. knobs, .15 ---------- 1 00
29. 2 *lox* & knobs, .50; 1 pr. P. B. & scrs., 15; 2 pr. N. B. & scrs., .15; 1 gro. les., 1219, .38; 5 lb nails, .25; 3 fin., .18; clos. *lox*, .15 ---------- 1 76
30. 9 rim *lox* & knobs, 2.25; 2 R. *lox*, pr. key, .70; 1 clos. *lx*, .15; 1 pr. butts, 7½ x 2½, .10; 1 sill latch, 3 ---------- 3 23
2 lb 6d. fin., .12; 1 key, .10 ---------- 22
——— $25 96

Rec'd payment, B. BAILEY.
Approved.

I. H. GIBBONS.
Dec. 8, '81.

1125*p* WASHINGTON, D. C., *December* 8, 1881.

Mr. F. H. Smith & Son to Richard Gasch, Dr., to fitting keys in houses on 16 street N. W.

1808 ---------- 5 keys.
1810 ---------- 13 "
1812 ---------- 13 "
1814 ---------- 13 "

1816 ..... 16 keys.
1822 ..... 16 "

76

At 15c. apiece $11.40

Receit. pay't,

RICH'D GASCH.

O. K.
E. J. SWEET.

1125*q* WASHINGTON, D. C., —— —, 188–.

Mess. F. H. Smith & Son, 16th & S N. W., bought of Thomas W. Smith.

1881.

Nov. 18.	To 6 doors, 2—6 x 7—0, M 2	@ 2.75		16 50	
	500 ft. 1 x 3 Va. pine	"	½	2 50	
	25 " 3 " crown	"	2	50	
					19 50
	Haul to 16th & S N. W.				
" "	35,000 laths	@ 2.50		87 50	
	20 ps. 3 x 4—18=360 / 50 " 2 x 4—18=600	960 ft. @	1½	14 40	
					101 90
	Haul to 16th & S N. W.				
" 21.	4 sets jambs, 2′ 8″ x 6′ 8″ 6″	@ .75		3 00	
	6 " 2′ 8″ x 7′ 0″ " " "			4 50	
	8 " 2′ 8″ x 8′ 0″ "	1.00		8	
	8 " 2′ 8″ x 6′ 8″ 3¾	.70		5 60	
	1 pr. 8 x 14 1¼ sta. blinds			1 25	
	1 window, 8 x 14 gla., 12 lts.			1 50	
	12 lights, glass 9 x 14			1	
	1 window, 12 lts., 9 x 14			1 60	
	138 ft. 6–4 D. seconds	5		6 90	
					33 35
	Haul to 16th & S N. W.				
" 22.	1,000 ft. Y. P. boards		1½	15	
	300 " corner strips		"	4 50	
					19 50
	Haul to 16th & S N. W.				
" "	5 B. H. box frames, 9 x 12	1.75		8 75	
	6 " " 22 x 4′ 6¼	"		10 50	
					19 25
	Haul to 16 & S N. W.				

1125*r*

Nov. 23.	200 ft. # 1 Va. partition		3½	7 00	
	37 " Va. wide D. select		6½	2 41	
	4 ps. 2 x 10—12=80 ft.		1½	1 20	
	32 ft. 6″ base # 2		2	64	
	4 ps. 2 x 4—6=44 ft.		1½	66	
					11 91
" 29.	19 " 3 x 10—20=950 ft.	1,830	1½	27 45	
	22 " 3 x 10—16=880 "				
	10 sets jambs, 2′ 8″ x 6′ 8″ 3¾″	.70		7 00	
					34 45
	Haul to 16th & S N. W.				
" "	2 box frames, 9 x 14 B. H. sill & seg. ps.				4 80
" 30.	192 ft. 6–4 D. seconds		5	9 60	
	356 " 5–4 " stepping, # 1		4	14 24	
	300 " 8 " base		3½	10 50	
					34 34
	Am't carried forward				$279 00

1881.	To am't brought forward				$279 00
Nov. 30.	80 ft. 4–4 D. seconds	@	5	4 00	
	75 " " " wide Va. pine	"	3	2 25	
	6 ps. 3 x 10—22=330 ft.	"	1¾	5 78	
	500 lin. ft. 1 x 3 Va. pine	"	½	2 50	
					14 53
	Haul to 16th & S N. W.				
Dec. 2.	30 ps. 2 x 8—16[21]=630	900	@ 1½	13 50	
	10 " 2 x 8—20[27]=270		" "		
	6 " 2 x 8—22[29]=174	@	1¾	3 05	
	15 " 2 x 10—16[27]=405	"	1½	6 08	
	1,000 ft. Va. pine sheathing	"	"	15	
					37 63
	Haul to 16th & S N. W.				

1125*s*

50 ps. 3 x 4—10=500				
50 " 2 x 4—10=250	1,150 ft.	1½	17 25	
25 " 2 x 4—18=300				
2 sets jambs, 3′ 0 x 9′ 0 6″	1.00		2 00	
				19 25
Haul to 16th & S N W.				
				$350 41

Rec'd pay.,

THOS. W. SMITH,
P'r H. W. S., Sr.

[Endorsed:] F. H. Smith & Son. Report # 7. Dec. 12, '81.

1126 In ac. with Mass. Mut. Life Ins.

DEC. 17TH, 1881.

1881.			
Dec. 14.	By bal. as per ac. rend.		$1,155 92
14.	To galv. iron cornice fo- 1800 16th St.	$99 00	
16.	" bricks for jobbing, whole row	52 00	
17.	" carpenters, 1607, 1609, 1611, 1613 S St.	75 00	
17.	" slating front of roofs of 1802, '4, '6 16th St.	24 00	
17.	" ac. plastering 1607, '9, '11, 13 S St.	100 00	
17.	" ac. brick-work 1800, '2, '4, '6 16th St.	100 00	
17.	" ac. bell-hanging 1822 16th & 1607, '9, '11, '13 S St.	40 00	
17.	" painting galv. iron cornice 1800 16th	3 00	
17.	" ac. painting outsides and blinds 1607, '9, '11, '13 S	25 00	
17.	" carpenter's work 1800, '2, '4, '6 16th St.	209 71	
17.	" marble b'kts 1820, '22 16th St.	20 00	
17.	" paint bill to date, jobbing	29 16	
17.	" sep. tax lot 15 (1822 16th)	527 74	
17.	" bricklaying (jobbing)	24 62	
17.	" painting "	16 50	
17.	By balance overdrawn		190 56
		1,346 48	1,346 48

15 vouchers herewith.

[On margin:] Voucher- No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15.

1126*a* $75.00. Received from F. H. Smith & Son the sum of seventy-five $\frac{00}{100}$ dollars, being ac. carpenter's contract 1607, '9, '11, '13 S St. N. W.

Washington, D. C., Dec. 17th, 1881.

D. D. THOMPSON.

1126*b* $16.50. Received of F. H. Smith & Son the sum of sixteen $\frac{50}{100}$ dollars, being for painting (jobbing) on row of houses cor. 16th & S Sts. N. W. to date.

Washington, D. C., Dec. 17, 1881.

HENRY A. GRANT.
HENRY TAYLOR.

1126*c* $24.62. Received of F. H. Smith and Son the sum of twenty-four $\frac{62}{100}$ dollars, being for bricklaying (jobbing) on houses cor. 16th & Sts. N. W.

Washington, D. C., December 17th, 1881.

P. SCRIVENER.

1126*d* $209.71. Received of F. H. Smith and Son the sum of two hundred and nine $\frac{00}{100}$ dollars, being carpenters' pay-roll to date on houses 1800, 1802, 1804, 1806 16th St.
Washington, D. C., December 17, 1881.

I. H. GIBBONS.

1126*e* $25.00. Received of F. H. Smith & Son the sum of twenty-five $\frac{00}{100}$ dollars, being ac. outside painting houses 1607, '9, '11, '13 S St.
Washington, D. C., Dec. 17, 1881.

WILLIAM F. OGLE.

1126*f* $3.00. Received of F. H. Smith & Son the sum of three $\frac{00}{100}$ dollars, being for painting cornice of 1800 16th St. N. W.
Washington, D. C., Dec. 17, 1881.

W. H. PANYETT.

1126*g* $40.00. Received of F. H. Smith and Son the sum of forty $\frac{00}{100}$ dollars, being ac. bell-hanging 1822 16th St. & 1607, '9, '9, '13 S St.
Washington, D. C.

J. H. KUEHLING.

1126*h* $100.00. Received of F. H. Smith & Son the sum of one hundred $\frac{00}{100}$ dollars, being ac. brick-work house- 1800, '2, '4, '6 16th St. N. W.
Washington, D. C., December 17, 1881.

A. L. HUTTON.

1126*i* $100.00. Received of F. H. Smith & Son the sum of one hundred $\frac{00}{100}$ dollars, being ac. plastering houses 1607, '9, '11, '13 S St.
Washington, D. C., December 17, 1881.

THOS. H. LYNCH.

1126*j*. WASHINGTON, D. C., *Dec.* 17.

Mess. F. H. Smith and Son bought of G. W. Rearden & Co.

Dec. 5.	To 8 gall. b. oil, 6.40; 20 lb metallic, 1.00		7 40
	" 25 lb L. lead, 2.15; 2 gall. b. oil, 1.60		3 75
7.	" 25 lb " 2.15; 2 " r. " 1.50		3 65
	" 5 lb putty, .25; 1 qt. dyer, .25		50
	" 1 gall. turps., .65; 2 gall. b. oil, 1.60		2 25
8.	" 25 lb L. lead, 2.15; 1 gall. b. o. tin., 2.00		4 15
13.	" 1 l't 10 x 30, .20; 1 l't 16 x 20, .18		38
	" 1 l't 12 x 18, .12; ¼ blue, .10		28
	" 1 lb putty, .05; 4 gall. b. oil, 3.00		3 05
	" 5 lb metal-ic		25
16.	" 5 gall. r. oil		3 50
			29 16

Rec'd payment,

GEO. W. REARDEN.

1126*k* WASHINGTON, D. C., *Dec.* 10, 1881.

Messrs. Smith & Son to T. Toumey, Dr.

Dec. 4. 4 brackets & shelves, 5.00 each 20 00

Recei'd payment,

T. TOUMEY.

1126*l* WASHINGTON, D. C., *Dec.* —, 1881.

Mess. Sweet & Co. to George B. Clark, Dr.

To slating 3 fronts, 16 S., $8.00 ..... 24 00

Rec'd payment,

GEO. B. CLARK.

O. K.
E. J. S.

1126*m* WASHINGTON, D. C., *Dec.* 7, 1881.

F. H. Smith, Esq., to Washington Brick Machine Co., Dr.

1881.

Nov. 12 to Nov. 30, '81.	To 4,000 red, 8.00	32 00
	" 2,000 arch, 7.00	14 00
	" 1,000 sal., 6.00	6 00
		$52 00

Rec'd,

F. L. HOLBROOK,
Gen'l Manager.

1126*n* WASHINGTON, D. C., *Dec.* 14*th*, 1881.

Mess. F. H. Smith and Son to D. W. Stockstill & Co., Dr.

To 105 ft. Gravil iron crown mould., @ 95c. per ft., as per agreement 99 75

Received payment,

D. W. STOCKSTILL & CO.

For 1800 16th St.

1126*o* Book O 1,
folio 312. Revised.

Office of the Commissioners, District of Columbia, special assessment division.

WASHINGTON, D. C., *Dec.* 16, 1881.

John G. Adams:

You are hereby notified that lot No. 15, square No. 177, in —, has been assessed improvements, said lot fronting $62\frac{6}{12}$ feet on 16th St. N. to B'ndry.

Costs, $7.15.

453.82

By surrender of *lein* certificate No. 1427.

DECEMBER 16, 1881.

Received payment of Edward A. Newman by surrender of lien certificate No. 1427.

JOHN F. COOK,
Collector of Taxes.

Paid.

R. Dec. 16, '81.
J. W. C.

[Written across face:] Triplicate. Triplicate.

[Endorsed:] F. H. Smith & Son. Report # 8. Dec. 17, '81.

1126*p* 400.00. Received of F. H. Smith and Son the sum of four hundred $\frac{00}{100}$ dollars, being ac. plumbing, cor. 16th and S streets N. W.
Washington, D. C., December 23rd, 1881.

JOHN MITCHELL.

1126*q* $25.00. Received of F. H. Smith & Son the sum of twenty-five $\frac{00}{100}$ dollars, being ac. outside painting of houses 1607, 1609, 1611, 1613 S street N. W.
Washington, D. C., December 23rd, 1881.

WILLIAM F. OGLE.

1126*r* WASHINGTON, D. C., *Dec. 22nd*, 1881.

Mr. F. H. Smith & Son to John Kennedy, Dr.

Covering fire wall, S St. house	$5 00
21 ft. spouting for connections, S St. houses, @ 15c. per ft.	3 15
	$8 15
3 iron hooks for the large pipe	75
	$8 90

Above correct.
I. H. GIBBONS.

Rec'd payment,

JOHN KENNEDY.

O. K.
E. J. SWEET.

1126*s* WASHINGTON, D. C., *Dec. 22nd*, 1881.

Mr. F. H. Smith & Son to John Kennedy, Dr.

16 ft. large gutter @ 20c. per ft.	3 20
41 ft. large spouting @ 20c. per ft.	8 20
31 ft. small gutter @ 15c. per ft.	4 65
39 ft. small spouting, 15c. per ft.	5 85
Vall-y gutter, 40 ft., @ 8c. per ft.	3 20

2 window heads	1 00
Soldering the tin to the galvanized iron	5 00
	31 10

Rec'd payment,

JOHN KENNEDY.

Correct.
I. H. GIBBONS.

O. K.
E. J. SWEET.

1126*t* WASHINGTON, D. C., *Dec. 22nd*, 1881.

Mr. F. H. Smith & Son to John Kennedy, Dr.

Cor. house, 62 ft. 6 by 23 ft. 3	1,357
Next house to the corner, 36 ft. 6 by 16 ft.	594
Back building roofe, 15 ft. 2 by 12 ft.	182
Bay window next to the corner house	47
Bay window, 9 ft. 6 by 5 ft.	58
	2,238
@ $6.00 per square	6
	$134.28

Rec'd payment,

JOHN KENNEDY.

Above correct.
I. H. GIBBONS.

O. K.
E. J. SWEET.

1126*u* Bricklaying.

Hutton's bill.

DR.

Contract	920
Extra pin	15
Back chimney	35
Twou extra courses	30
Raising back chimney	65
Cutting out windows	100
Front chimney	25
Cutting away corner in basement	20
	1,210

CR.

By cash	1,060
Cash to balance	150

Rec'd payment in full,

A. L. HUTTON.

1126*v* $1,00.00. Received of F. H. Smith & Son the sum of one hundred $\frac{00}{100}$ dollars, being in full for bal. due contract for plastering 1607, '9, '11, '13 S St. N. W.
Washington, D. C., Dec. 24, 1881.

THOS. H. LYNCH.

1126*w* $225.00. Received of F. H. Smith & Son the sum of two hundred and twenty-five $\frac{00}{100}$ dollars, being ac. plastering 1800, '02, '04, '6 16th St.
Washington, D. C., Dec. 24, 1881.

G. H. DU PONT.

1126*x* $170.82. Received of F. H. Smith & Son the sum of one hundred & seventy $\frac{82}{100}$ dollars, being carpenter's pay-roll to date on houses 1800, 1802, 1804, 1806 16th St.
Washington, D. C., Dec. 24, 1881.

J. H. GIBBONS.

1126*y* $23.25. Received of F. H. Smith & Son the sum of twenty-three $\frac{25}{100}$ dollars, being in full to date for bricklaying (jobbing), cor. 16th & S streets.
Washington, D. C., Dec. 24, 1881.

J. H. GIBBONS,
Per SCRIVNER.

1126*z* WASHINGTON, *Dec.* —, 1881.

F. H. Smith and Son to E. J. Story, Dr.

To concreting cellar of house No. 22 Sixteenth St. N. W.... $22 60

Dec. 24, '81, rec'd payment,

E. J. STORY.

1800 S, cor. 16th.

1126*aa* $100.00. Received of F. H. Smith & Son the sum of one hundred $\frac{00}{100}$ dollars, being ac. carpenter's contract, 1607, '9, '11, '13 S St N. W.
Washington, D. C., Dec. 24, 1881.

D. D. THOMPSON.

1126*ab* $16.00. Received of F. H. Smith and Son the sum of sixteen $\frac{00}{100}$ dollars, being for services as watchman for two weeks to date on Balloch houses, cor. 16th and S Sts.
Washington, D. C., December 26th, 1881.

JACOB D. HUTTON.

1126*ac* $6.00. Received of F. H. Smith and Son the sum of six $\frac{00}{100}$ dollars, being in full for painting (jobbing) houses cor. 16th and S streets N. W.
Washington, D. C., Dec. 24, 1881.

HENRY A. GRANT.

1126*ad* $1.50. Received of F. H. Smith & Son the sum of one $\frac{50}{100}$ dollars, being for painting (jobbing) 1800 16th St.
Washington, D. C., Dec. 24, 1881.

HENRY TAYLOR.

1126*ae* WASHINGTON, D. C., *December* 26, 1881.

Messrs. Smith and Son, # 1812 16th St. N. W., to J. F. Spelshouse, Dr.

Dec. 11.	To papering 3 vestibules, # 1812, '16, & '20 16th St. *St.*		3 15
" "	12 sides paper (parlor) @ .65		7 80
" "	2½ border " .40		1 00
13. "	10 sides G paper (dining-room) .40		4 00
" "	2½ border " .30		75
" "	10 sides top paper (hall) .30		3 00
" "	4½ dado " .30		1 35
" "	7 border " .30		2 10
			$23 15

Rec'd payment,

J. F. SPELSHOUSE.

O. K.
E. J. S.

1127 In account with Mass. Mut. Life Ins. Co.

DEC. 28, '81.

1881.				
Dec. 22.	By N. Y. draft			$2,500 00
17.	To balance ac. rendered	190 56		
23.	" ac. plumbing 16th & S St. houses	400 00		
24.	" ac. painting outsides 1607, '9, '11, '13 S St.	25 00		
24.	" bal. in full for roofing	174 28		
24.	" bricklaying, 1800, '02 16th St	150 00		
24.	" bal. in full plastering 1607, '9, '11, 13 S St.	100 00		
24.	" ac. plastering 1800, '02, '4, '6 16th	225 00		
24.	" carpenter's pay-roll 1800, '2, '4, '6, 16th	170 82		
24.	" bricklaying (jobbing) 1800, '2, '4, '6 16th	23 25		
24.	" concreting basement of 1800 16th St.	22 60		
26.	" ac. carpenter's contract, 1607, '9, '11, '13 S St.	100 00		
27.	" watchman, 2 weeks to date	16 00		
27.	" painting (jobbing)	6 00		
28.	" do. do.	1 50		
28.	" papering 1812 16th St.	23 15		
28.	" commission, 10 % on $2,500	250 00		
28.	" balance to your credit	621 84		
		2,500 00		2,500 00

14 vouchers herewith.

[On margin:] Vouchers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14.

[Endorsed:] F. H. Smith & Son. Report No. 9. Dec. 28, '81.

1127*a* $200.00. Received of F. H. Smith & Son the sum of two hundred $\frac{00}{100}$ dollars, being ac. bill for lumber delivered at houses corner 16th and S street N. W.
Washington, D. C., Jan'y 10, 1882.

THOS. W. SMITH.

1127*b* $16.00. Received of F. H. Smith & Son the sum of nine $\frac{00}{100}$ dollars, being in full for services as watchman, 2 weeks to date, houses cor. 16th & S streets N. W.
Washington, D. C., January 9th, 1882.

J. D. HUTTON.

1127*c* 25.00. Received of F. H. Smith and Son the sum of twenty-five $\frac{00}{100}$ dollars, being ac. contracts for outside painting of houses 1607, '9, '11, '13 S street N. W.
Washington, D. C., January 7th, 1882.

WILLIAM F. OGLE.

1127*d* $3.50. Received of F. H. Smith & Son the sum of three $\frac{50}{100}$ dollars, being for 6 loads sand, to date, delivered cor. 16th & S streets N. W.
Washington, D. C., Jan'y 7th, 1882.

GEO. T. McGLUE.

1127*e* $300.00. Received of F. H. Smith & Son the sum of three hundred $\frac{00}{100}$ dollars, being ac. contract carpenters' work on houses 1607, '9, '11, 13 S street N. W.
Washington, D. C., January 7th, 1882.

D. D. THOMPSON.

1127*f* $24.00. Received of F. H. Smith & Son the sum of twenty-four $\frac{00}{100}$ dollars, being for brick-work (jobbing) 1800, '2, '4, '6 16th St.
Washington, D. C., Jan'y 7, 1882.

I. H. GIBBONS,
P'r F. SCRIVNER.

1127*g* $168.76. Received of F. H. Smith & Son the sum of one hundred & sixty-eight $\frac{76}{100}$ dollars, being carpenters' pay-roll houses 1800, '2, '4, '6 16th St.
Washington, D. C., January 7th, 1882.

I. H. GIBBONS.

1127*h* $24.75. Received of F. H. Smith & Son the sum of twenty-four $\frac{75}{100}$ dollars, being in full for bricklaying (jobbing), house- 1800, '2, '4, '6 16th St. N. W.
Washington, D. C., December 31, 1881.

P. SCRIVENER.

1127*i* $4.00. Received of F. H. Smith & Son the sum of four $\frac{00}{100}$ dollars, being for grading yards of 1800, '2, '4, '6 16th St.
Washington, D. C., Dec. 31, 1881.

his
B. x QUALLS.
mark.

Witness:
F. B. SMITH.

1127*j* $10.00. Received of F. H. Smith and Son the sum of ten $\frac{00}{100}$ dollars, being ac. contract for bell-hanging, 1607, '9, '11, '13 S St. N. W.
Washington, D. C., December 31st, 1881.

J. H. KUEHLING.

1127*k* $173.63. Received of F. H. Smith & Son the sum of one hundred & seventy-three $\frac{63}{100}$ dollars, being carpenter's pay-roll to date, houses 1800, 1802, '4, '6 16th street N. W.
Washington, D. C., Dec. 31, 1881.

I. H. GIBBONS.

1127*l* $30.00. Received of F. H. Smith & Son the sum of thirty $\frac{00}{100}$ dollars, being $25.00 ac. contract for outside painting, 1607, '9, '11, '13 S St. & vestibules of 16th St. houses.
Washington, D. C., Dec. 31st, 1881.

WILLIAM F. OGLE.

1127*m* $50.00. Received of F. H. Smith & Son the sum of fifty $\frac{00}{100}$ dollars, being ac. contract carpenter work, 1607, '9, '11, '13 S St. N. W.
Washington, D. C., Dec. 31st, 1881.

D. D. THOMPSON.

1127*n* WASHINGTON, D. C., *Dec. 6th*, 1881.

Mr. F. H. Smith & Son, S St. & 16 & 17, bought of J. T. Walker's Sons.

1 bbl. R. top 1 75

Paid.

J. T. WALKER'S SONS.

Received.
(Sign.) P. SCRIVENER.

1127*o* WASHINGTON, D. C., *Dec.* 31, 1881.

Mr. F. H. Smith & Son to August Kleinhenn, Dr.

For fitting 17 keys to houses on 16 St. N. W..... $2 00

Received payment,

A. KLEINHENN,
Per G. N.

Paid by—
E. J. SWEET.

1127*p* WASHINGTON, D. C., *Dec. 29th*, 1881.

Messrs. F. H. Smith & Son to Sayers & Co., Dr.

To furnishing the following cut-stone work for building cor. 16th & S street- N. W.:

To 6 window sills, 2′ 7″ = 15′ 6, at 45c.	6 95
" 5 " " 3 0½ = 15 2, " "	6 82
" 8 bluestone steps, 3 3 long, = 26 0, at 38c.	9 88
" 3 winders, 20 0, at .40	8 00
	$31 65

Rec'd payment,

SAYERS & CO.

Above correct.
I. H. GIBBONS.

O. K.
E. J. S.

1127*q* WASHINGTON, D. C., *Dec'r* 30, 1881.

Mr. F. H. Smith & Son to Pettit & Dripps, Dr.

Putting cresting on 10 house-, @ 10 ea. $80 00

Jan'y 10, 1882.
Rec'd paym't,

PETTIT & DRIPPS,
P'r HOLMES.

1127*r* WASHINGTON, D. C., *Jan'y 5th*, 1881.

Delivered to Mess. Smith & Son, No. 16th and S street-, bet. — and —, 1 cord long oak wood.
McGindle, cartman.
Stevenson, weigher.

Received.

I. H. GIBBONS.

WASHINGTON, D. C., *Jan'y 7th*, 1882.

Mess. F. H. Smith & Son bought of Mrs. E. J. Guinand.

1 cord long oak wood	$7 00
Sawing same	75
	$7 75

Received payment,

E. J. GUINAND,
Per STIMSON.

Above correct.
J. H. GIBBONS.

1127*s* WASHINGTON, D. C., *Dec.* 30, 1881.

Mess. F. H. Smith and Son, bought of G. W. Rearden.

Dec. 19.	To 10 gall. B. oil, 7.50; 16 ℔ metallic, .80	8	30
20.	" 1 lt. 12 x 32, .23; 25 ℔ L. lead, 2.15	2	38
23.	" 1 gall. B. oil, .75; ½ gall. turps, .33	1	08
	" 1 qt. dryer, .20; ½ bus. sand, .18		38
24.	" 1 lt., 12 x 18		12
		12	26

Rec'd payment,

GEO. W. REARDEN.

O. K.
E. J. SWEET.

1127*t* WASHINGTON, D. C., *Jan.* 2, 1882.

Mess. F. H. Smith & Son bought of Bernard Bailey.

1881.

Dec. 1.	1 keg nails, 4, 4.15; 5, 4.15; 8, 3.65	11	95
	1 lox & knob, .25; 1 shut. knob, 3		28
	1 hoox & sta., .10; 1 byd. bolt., .20		30
	1 d'r butts, 1¼, 5; 3 door stops, .12		17
	2 " st. hgs., 8, .30; 8 ℔ nails, 8, .40		70
2.	1 wall star, .30; (3) 1 bolt, .20		50
3.	1 bbl. bolt, .15; 1 th. latch & hgs., .20		35
	1 " w w nails, 7; (5) 1 keg nails, 3.65	3	72
5.	1 keg nails, 10, 3.40; 1 hoox & sta., 5	3	45
	1 gro. sc's, ¾ x 7, .18; 1 gro. sc's, 1 x 10, .30		48
	½ dz. sash lox, .38; 1¾" sash cord, .43		81
	1 grindstone h'dle, .15; (6) 6 pr. st. hgs., 8, .90	1	05
6.	3 rim lox & knobs, .75; 12" butts, 2 x 2, .60	1	35
	6 hoox & eyes, .20; 1 gro. sc's, ¾, .18		38
	6 sch. L. & P. hgs., 5, 1.50; 2 gro. sc's, 1, .60	2	10
	6 w w bbl. bolts, .90; (8) 1 ℔ glue	1	15
8.	2 pr. bys. brackets, .80; (9) 2 dz. sash Fox porc. knobs, 2.00	2	80
9.	½ dz. clos. lox, 1.00; 1 dz. porc. shut. knobbs, 1¼, .30	1	30
10.	1 dz. buttons & sc's, .15; 1 keg nails, 8, 3.65; 10, 3.40	7	20
	1 gro. sc's, 1, .30; 1 gro. sc's, 1½, .42		72
	12 pr. butts, 3 x 3, 1.05; (13) 10 ℔ fin. nails, ea. 5, .70; 6, .60	2	35
14.	10 ℔ fin. nails, 8, .60; 10, .60; (15) 1 keg " 8, 3.65; 10, 3.40	8	25
15.	30 ℔ " ass'd, 1.80; 5 dz. br'c't nails, 1.25	3	05

	16. 37½ y'd. cotton, 3.65; 2 qu. sand paper, .50	4 25	
1127*u*	12 po. Fox, 60; (19) 12 p'r bl'd hinges, 1.80	2 40	
	20. 1 pr. butts, 3 x 2, .07; 1 pa. brads, 1½, .12	19	
	21. 12¾ ℔ sash cords, 3.19; sash w'ts, 30 ¦ 4″ 43 ¦ 42″ 15 ¦ 6″ 404″, 5.06	8 25	
	2 dz. gate hoo*x*, .80; 2 dz. butts, 3 x 3, 2.10	2 90	
	5 gro. sc's, 1, 1.50; (24) 2 pa. brads, 1, .26; 3 ℔ glus, .75	2 51	
	24. — sash w'ts, 70 ¦ 4″ 13 ¦ 4½″ 21 ¦ 6″ 16 ¦ 6½″ = 569″, 1.38	7 68	
	27. 1½ dz. stand. sc's, .75; 1 dz. mort. *lox* & po-c. knobs, comp. 10.50	11 25	
	1 glue brush, .20; 3 L. D. *lox*, 2.85	3 05	
	6 pr. porc. door knobs & esc't's, 2.30; 3 pr. esc't's, .19	2 49	
	12 pr. butts, 3 x 3, 1.05; 3 gro. sc., 1, .90	1 95	
	3 rim *lox* & knobs, .75; 48 ft. S. D. rail & sc. —	3 15	
	34 R. T. door stop-, 1.14; 5 dz. nar. butts, 1¾, & sc's, 2.25	3 39	
	18 trace knots, .30; (29) 3 s'ts door *lox*, 2.85	3 15	
	Over	111 02	
	Am't bro. for	111 02	
Dec. 29.	15 ℔ nails, .75; 6 pr. porc. door knob*b*s, 1.93	2 68	
	3 pr. pl't'd esc't's, .19; 12 pr. butts, 3 x 3, 1.05	1 24	
	9 rim *lox* & knob*b*s, 2.25; 18 closet *lox*, bo., key, 4.80	7 05	
	4 less S. D. shears, 4 sc., 4.00; ½ gro. C. & H. hoo*x*, .75	4 75	
	1 gro. sc., ⅝, .15; (30) 1 glue brush, .20	35	
	31. 2 " 1½, .42	84	
			$127 93
	28. ½ gro. C. & H. hoo*x*, .75; 1 gro. sc., ⅝, .18	93	
	3 thumb latches, sc., .30; 3 brs. bbl. bolts, scr., .45	75	
	3 dz. shut. knob*b*s, 1½, .75; 9 closet *lox*, st. key, 2.78	3 53	
			5 21
			$133 14

Above correct.

I. H. GIBBONS.

Rec'd pay't,

BERNARD BAILEY.

1127*v* WASHINGTON, D. C., —— —, 188–.

Mess. F. H. Smith & Son bought of Thomas W. Smith.

1881.		
Dec. 27.	To am't of ac. rendered	$1,230 85
1882.		
Jan'y 5.	By cash on ac.	500 00
		730 85

THOS. W. SMITH.
H. W. S., *Sc.*

1128 In ac. with Mass. Mutual Life Ins. Co.

JAN'Y 10, 1882.

1881.			
Dec. 28.	By balance		621 84
Jan'y 4.	" N. Y. draft		2,500 00
	To work & material, Balloch houses, viz:		
1881.			
Dec. 30.	To stove 1800 16th St. N. W.	31 65	
31.	" ac. carpenrers (contract), 1607, '9, '11, '13 S	50 00	
31.	" cement	1 75	
31.	" ac contract painting, 1607, '9, '11, '13 S (outside)	30 00	
31.	" carpenters' pay-roll, 1800, '2, '4, '6 16th St.	173 63	
31.	" paint bill (jobbing)	12 26	
31.	" ac. bell-hanging, 1607, '9, '11, '13 S St.	10 00	
31.	" grading yards 1800, '2, '4, '6 16th St.	4 00	
31.	" bricklaying (jobbing), 1800, '2, '4 16th St.	24 75	
1882.			
Jan'y 5.	" keys, 1607, '9, '11, '13 S St.	2 00	
5.	" ac. lumber, 1800, '2, '4, '6 16th St.	500 00	
6.	" carpenters' pay-roll, 1800, '2, '4, '6 16th St.	168 76	
7.	" bricklaying (jobbing)	24 00	
7.	" ac. carpenters' contract, 1607, '9, '11, '13 S St.	300 00	
7.	" sand	3 50	
7.	" ac. contract, painting outside, 1607, '9, '11, '13 S St.	25 00	
7.	" fuel for workmen	7 75	
9.	" watchman, 2 weeks to date	16 00	
9.	" hardware, 1800, '2, '4, '6 16th St.	133 14	

10. To iron cresting, 16-St. houses 80 00
10. " ac. lumber, 1800, '2, '4, '6 16th St.. 200 00

1128*a*

4. " commission, 10%, on $2,500 .... 250 00
10. " balance 1,073 65

3,121 84 3,121 84

F. H. SMITH & SON.

21 vouchers herewith.

[On margin:] Voucher- No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21.

[Endorsed:] F. H. Smith & Son. Rep't # 10. Jan. 10, '82.

1128*b* WASHINGTON, D. C., *Jan'y 5th*, 1882.

Mr. F. H. Smith & Son bought of J. T. Walker's Sons.

1 bbl. *Bo*-tland cement 4 50

Paid.

J. T. WALKER'S SON.

Received.
P. SCRIVENER.

1128*c* WASHINGTON, D. C., *Jan. 3rd*, 1882.

Mess. Frank H. Smith & Son bought of J. T. Walker's Sons.

2 bbls. Portland cem't 8 50

Paid.

J. T. WALKER'S SONS.

O. K.
Received.
P. SCRIVENER,
16th & S Sts.

1128*d* $5.00. Received of F. H. Smith & Son the sum of five $\frac{00}{100}$ dollars, being in full for painting (jobbing) houses on 16th St. bet. S and T.

Washington, D. C., January 14th, 1882.

his
H. x FILLSTINE.
mark.

Witness:
F. B. SMITH.

1128*e* $10.00. Received of F. H. Smith and Son the sum of ten $\frac{00}{100}$ dollars, being ac. painting roofs 1800, '2, '4, '6 16th street.

Washington, D. C., January 14, 1882.

S. B. MOTEN.

1128*f* $7.00. Received of F. H. Smith & Son the sum of seven $\frac{00}{100}$ dollars, being for grading in front of & around house 1800 16th street.

Washington, D. C., January 14, 1882.

his
BENJ. x QUARLY.
mark.

Witness:
F. B. SMITH.

1128*g* $200.00. Received of F. H. Smith and Son the sum of two hundred $\frac{00}{100}$ dollars, being ac. contract for carpenter work on houses 1607, '9, '11, '13 S street.

Washington, D. C., January 14th, 1882.

D. D. THOMPSON.

1128*h* $100.00. Received of F. H. Smith and Son the sum of one hundred $\frac{00}{100}$ dollars, being ac. 4 Paris brick-set ranges in houses 1607, '9, '11, '13 S street.

Washington, D. C., January 14, 1882.

EDW'D CAVERLY & CO.

1128*i* $80.00. Received of F. H. Smith and Son the sum of eighty $\frac{00}{100}$ dollars, being ac. plastering houses 1800, '2, '4, '6 16th St.

Washington, D. C., January 14th, 1882.

G. H. DU PONT.

1128*j* $30.00. Received of F. H. Smith and Son the sum of thirty $\frac{00}{100}$ dollars, being ac. contract for painting houses 1607, '9, '11, '13 S street.

Washington, D. C., January 14th, 1882.

WILLIAM F. OGLE.

1128*k* $24.75. Received of F. H. Smith and Son the sum of twenty-four $\frac{75}{100}$ dollars, being in full to date for bricklaying (jobbing) houses 1800, '2, '4, '6 16th street.

Washington, D. C., January 14th, 1882.

I. H. GIBBONS,
Per P. SCRIVENER.

1128*l* $111.68. Received of F. H. Smith and Son the sum of one hundred and eleven $\frac{68}{100}$ dollars, being carpenter pay-roll to date, houses 1800, 1802, '4 and '6 16th street.

Washington, D. C., January 14th, 1882.

I. H. GIBBONS.

1128*m* WASHINGTON, D. C., *January* 12, 1882.

F. H. Smith, Esq., to Washington Brick Machine Co., Dr.

1881.
Dec. 23. To 1,000 salmon, 13 & S 6 00
1882.
Jan. 6. " 1,000 red " " 8 00
——— $14 00

Paid.

F. B. SHAFER,
For CO.

1128*n* WASHINGTON, D. C., *Dec.* 31, 1881.

Messrs. F. H. Smith and Son bought of Frank P. May & Co.

Dec.	1.	2 jack-screws, 2.50	5 00
	3.	8 night latches, 1.25	10 00
		1 doz. 4-in. bar. bolts	1 00
		½ gro. pict. nails	1 50
		8 pair timbuckles	1 00
		1 " butts & screws	10
		1 " knobs	40
		10 lbs. 10d. fin. nails	60
		3 doz. shutt. bars, .40	1 20
	7.	2 rim locks	50
	10.	6 sets L. & P. hinges, .30	1 80
		1 gro. 1¼ #10 screws	40
		1 " ¾ # 6 "	20
	23.	1 keg 10d. nails	3 40
		3 doz. 4-in. double-nut r. scr's	1 80
		1½ " 4-in. single " "	75
	28.	1 quire sand paper	25
			29 90

CR.

Dec. 30. By 1½ doz. 4-in. single-nut rail scr's 75

$29 15

Rec'd payment,

F. P. MAY & CO.

Jan. 14, '82.

Correct.
I. H. GIBBONS.

1129 In account with Mass. Mutual Life Ins. Co.

JANUARY 17TH, 1882.

188).

Jan.	10.	By balance			1,073 65
	11.	To cement	13 00		
	12.	" hardware	29 15		
	14.	" carpenters' pay-roll, 1800, '2, '4, '6 16th St.	111 68		
	14.	" bricklayers' pay-roll (jobbing), 1800, '2, '4, '6 16th St.	24 75		
	14.	" ac. contract painting, 1607, '9, '11, '13 S St.	30 00		
	14.	" ac. contract plastering, 1800, '2, '4, '6 16th St.	80 00		
	14.	" ac. ranges, 1607, '9, '11, '13 S street	100 00		
	14.	" ac. contract carpenters, 1607, '9, 11, '13 S street	200 00		
	14.	" grading, 1800 16th street	7 00		
	14.	" ac. painting roofs, 1800, '2, '4, '6 16th St.	10 00		
	14.	" $1,500 ins., fire, each on 1607, '9, '11, 13 S St.	15 00		
	14.	" bricks	14 00		
	14.	" painting, jobbing	5 00		
	17.	" balance to your credit	434 07		
			1,073 65		1,073 65

F. H. SMITH & SON.

13 vouchers herewith.

[On margin:] Vouchers No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.
[Endorsed:] F. H. Smith & Son. Jan'y 17th, 1882. No. 11.

1129*a* $10.00. Received of F. H. Smith and Son the sum of ten $\frac{00}{100}$ dollars, being ac. bell-hanging and speaking tubes in houses 1607, '9, '11, '13 S street.
Washington, D. C., January 16th, 1882.

J. H. KUEHLING.

1129*b* $100.00. Received of F. H. Smith and Son the sum of one hundred $\frac{00}{100}$ dollars, being ac. ranges and latrobes in houses 1607, '9, '11, '13 S street.
Washington, D. C., January 18, 1882.

EDW'D CAVERLY & CO.

1129*c* $150.00. Received of F. H. Smith and Son the sum of one hundred & fifty $\frac{00}{100}$ dollars, being ac. contract carpenters 1607, '9, '11, '13 S. St.
Washington, D. C., January 21, 1882.

D. D. THOMPSON.

1129*d* $12.00. Received of F. H. Smith & Son the sum of twelve $^{00}_{100}$ dollars, being ac. painting 1607, '9, '11, '13 S St.
Washington, D. C., January 21, 1882.

WILLIAM F. OGLE.

1129*e* $94.11. Received of F. H. Smith & Son the sum of ninety-four $^{11}_{100}$ dollars, being carpenters' pay-roll to date, houses 1800, 1802, '4, '6 16th St.
Washington, D. C., January 21, 1882.

I. H. GIBBONS.

1129*f* $23.25. Received of F. H. Smith & Son the sum of twenty-three $^{25}_{100}$ dollars, being in full bricklaying (jobbing) 16th & S street-.
Washington, D. C., January 21, 1882.

I. H. GIBBONS,
For P. SCRIVENER.

1129*g* $10.00. Received of F. H. Smith & Son the sum of ten $^{00}_{100}$ dollars, being ac. bell-hanging & speaking tubes 1607, '9, '11, '13 S street.
Washington, D. C., January 21, 1882.

J. H. KUEHLING.

1129*h* $10.00. Received of F. H. Smith & Son the sum of ten $^{00}_{100}$ dollars, being ac. roof painting 16th & S street-.
Washington, D. C., January 21, 1882.

S. B. MOTEN.

1129*i* $16.00. Received of F. H. Smith & Son the sum of sixteen $^{00}_{100}$ dollars, being in full for services as watchman houses cor. 16th & S streets, 2 weeks to date.
Washington, D. C., January 23, 1882.

J. D. HUTTON.

1130 In ac. with Mass. Mutual Life Ins. Co.

JAN'Y 23, 1882.

1882.				
Jan'y 17.	By balance			434 07
17.	To ac. bell-hanging 1607, '9, '11, '13 S St.	10 00		
19.	" ac. latrobes & ranges " "	100 00		
21.	" ac. carpenters' contract " "	150 00		
21.	" ac. painting " "	12 00		
21.	" carpenters' pay-roll 1800, '2, '4, '6 16th St.	94 11		
21.	" bricklaying (jobbing)	23 25		
21.	" ac. bell-hanging 1607, '9, '11, '13 S St.	10 00		
21.	" ac. painting roofs 1800, '2, '4, '6 16th St.	10 00		
23.	" watchman, 2 weeks to date	16 00		
23.	" balance to your credit	8 71		
		434 07		434 07

F. H. SMITH & SON.

9 vouchers herewith.

[On margin:] Voucher- 1, 2, 3, 4, 5, 6, 7, 8, 9.

[Endorsed:] F. H. Smith & Son. Jan. 23d, 1882. No. 12.

1130*a* $16.00. Received of F. H. Smith & Son the sum of sixteen $\frac{00}{100}$ dollars, being in full for services as watchman, 2 weeks to date, houses cor. 16th & S streets.
Washington, D. C., February 6th, 1886.

J. D. HUTTON.

$4.00. Received of F. H. Smith & Son the sum of four dollars, being ac. painting outsides of 1802, '4, '6 16th St.
Washington, D. C., February 4th, 1882.

S. B. MOTEN.

$18.00. Received of F. H. Smith & Son the sum of eighteen dollars, being ac. contract painting 1607, '9, '11, '13 S street N. W.
Washington, D. C., February 4th, 1882.

WILLIAM F. OGLE.

$24.75. Received of F. H. Smith & Son the sum of twenty-four $\frac{75}{100}$ dollars, being pay-roll bricklaying 16th & S streets.
Washington, D. C., February 4th, 1882.

J. H. GIBBONS,
For P. SCRIVENER.

1130*b* $128.50. Received of F. H. Smith & Son the sum of one hundred and twenty-eight $\frac{50}{100}$ dollars, being carpenters' pay-roll 1800, '2, '4, '6 16th St.
Washington, D. C., February 4th, 1882.

J. H. GIBBONS.

$100.00. Received of F. H. Smith and Son the sum of one hundred dollars, being ac. latrobes 1802, 1804, 1806 16th street N. W.
Washington, D. C., Feb'y 4th, 1882.

EDW. CAVERLY & CO.

$200.00. Received of F. H. Smith & Son the sum of two hundred dollars, being ac. mantles & shelves 16th & S streets.
Washington, D. C., February 1st, 1882.

T. TOUMEY.

$1.80. Received of F. H. Smith & Son the sum of one $\frac{80}{100}$ dollars, being in full for 3 loads sand delivered houses corner 16th and S street-.
Washington, D. C., January 31st, 1882.

HENRY S. McGLUE.

1130*c* $15.00. Received of F. H. Smith & Son the sum of fifteen dollars, being ac. bell-hanging & speaking tubes houses 1607, '9, '11 S street.
Washington, D. C., January 28th, 1882.

J. H. KUEHLING.

$5.00. Received of F. H. Smith & Son the sum of five dollars, being ac. painting roofs 16th & S St.
Washington, D. C., January 28th, 1882.

S. B. MOTEN.

$400.00. Received of F. H. Smith & Son the sum of four hundred dollars, being on account contract carpenter work 1609, '11, '13, '15 S St. N. W.
Washington, D. C, Jan'y 28th, 1882.

D. D. THOMPSON.

19.87. Received of F. H. Smith & Son the sum of nineteen $\frac{87}{100}$ dollars, being for bricklaying (jobbing) 16th & S street-.
Washington, D. C., January 28th, 1882.

J. H. GIBBONS,
For P. SCRIVENER.

1130*d* $131.10. Received of F. H. Smith & Son the sum of one hundred and thirty-one $\frac{10}{100}$ dollars, being carpenters' pay-roll 1800, '2, '4, '6 16th St.
Washington, D. C., January 28th, 1882.

J. H. GIBBONS.

$400.00. Received of F. H. Smith & Son the sum of four hundred dollars, being ac. plumbing houses corner of 16th and S streets N. W.
Washington, D. C., January 28th, 1882.

JOHN MITCHELL.

$80.00. Received of F. H. Smith & Son the sum of eighty dollars, being balance due for 4 brick-set ranges & 4 latrobes in houses 1607, '9, '11, '13 S St. N. W.
Washington, D. C., January 26th, 1882.

EDW'D CAVERLEY & CO.

$5.00. Received of F. H. Smith & Son the sum of five dollars, being for lettering transoms over front doors of houses 1802, '4, & '6 16th St. and 1603, 1605 S street.
Washington, D. C., Jan'y 23d, 1882.

LEON BORN.

1131 Messrs. F. H. Smith — —— bought of J. T. Walker Sons.

Jan'y 12.	3 bbls. Portland	$13 50
19.	9 squares Tenn. marb.	11 25
24.	2 bbls. Portland	9
		$33 75

Paid.

J. T. WALKER SONS.

F. H. Smith & Sons, 515 7th St. N. W., Washington, D. C., in ac. with Mass. Mu. Life Ins. —.

FEB'Y 9TH.

1882.						
Jan'y	23.	By balance				$8 71
	24.	" N. Y. draft				2,500
	25.	To balance, lumber bill	$530	85		
	26.	" lettering transoms, 1802, '4, '6 16th & 1603, '5 S St.	5			
	27.	" bal. ranges & latrobes, 1607, '9, '11, '13 S	80			
	28.	" ac. plumbing	400			
	28.	" carpenters' pay-roll, 1800, '2, '4, '6 16th St.	131	10		
	28.	" bricklaying (jobbing)	19	87		
	28.	" ac. contract carpenters, 1607, '9, '11, '13 S	400			
	30.	" ac. painting roofs	5			
	30.	" " bell-hanging	15			
	30.	" 3 loads sand @ .60	1	80		
Feb'y	1.	" ac. mantles, &c., 1607, '9, '11, '13 S	200			
	2.	" cement, &c.	33	75		
	4.	" ac. latrobes & ranges, 1800, '2, '4, '6 16th St.	100			
1131*a*						
Feb'y	4.	To carpenters' pay-roll, 1800, '2, '4, '6 16th St.	128	50		
	4.	" bricklaying (jobbing)	24	75		
	4.	" ac. contract painting, 1607, '9, '11, 13 S	18			
	4.	" ac. contract painting, outsides, 1802, '4, '6 16th St.	4			
	5.	" watchman, 2 weeks to date	16			
	6.	" commission, 10% on 2,500	250			
	9.	" balance	145	09		
			2,508	71	2,508	71

F. H. SMITH & SON.

18 vouchers herewith.

[On margin:] Voucher- No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18.

Mess. F. H. Smith & Son bought of Thomas W. Smith.

1881.				
Nov. 18.	4 windows, 27 x 40, 1⅜, gla., 2 l'ts, @ 3.42		$13 68	
	6 windows, 22 x 40, 1⅜, gla., 2 l'ts, @ 3.35		19 80	
	2 windows, 10 x 40, 1⅜, gla., 2 l'ts, @ 2.38		4 76	
	10 windows, 27 x 36, 1⅜, gla., 2 l'ts, @ 3.22		32 20	
	4 windows, 10 x 36, 1⅜, gla., 2 l'ts, @ 2.08		8 32	
	12 windows, 22 x 36, 1⅜, gla., 2 l'ts, @ 3.10		37 20	
	All above seg. h'd 3″ spring.			
	6 sets ins. shut., 2—8½ x 7—3, 4 fold, 4.35		26 10	
	6 sets ins. shut., 2—3 x 7—3, 4 fold, 3.15		18 90	
	2 sets ins. shut., 1—3 x 7—3, 4 fold, 2.20		4 40	
	10 sets ins. shut., 1—8½ x 6—7, 4 fold, 3.95		39 50	
	4 sets ins. shut., 1—3 x 6—7, 4 fold, 3		12	
	12 sets ins. shut., 2—3 x 6—7, 4 fold, 2		24	
	4 doors, 2—8 x 7—0, 1¼′, ogee, sq. glass in top, 2.25		9	
1131*b*	5 doors, 3—0 x 7—4, 1⅜ in., 2, 3.50		17 50	
				267 36
1881.				
Nov. 22.	2 sets ins. shut., 2′ 8½″ x 4′ 7″, ⅞, 4 f'ld, 9 ft. 2 in., @ .60		5 60	
	6 sets ins. shut., 2′ 3″ x 4′ 7″ = 27 ft. 6′, M., .50		13 75	
	6 windows, 2′ 2″ x 4′ 6¼″, 1⅜, sq., 2 l'ts, 1.75		10 50	
	2 windows, 2′ 7½″ x 4′ 6¼″ 1⅜, sq., 2 l'ts, 2		4 00	
	1 pr. sliding doors, 7′ 0″ x 8′ 6″, 1¾, 4 pan.		15	
	1 pr. front doors, 5′ 0″ x 9′ 5″, 1¾, 6 pan.		18	
	For glass in small upper panels.			
	8 shelves, 4′ 0″, .75		6	
	1 bottom sash, 6 l'ts, 9 x 16, gla.		1	
				73 85

Nov.	23. 600 ft. $\frac{7}{8}$ x 5″ ins. wind. jambs, 3		18	
	300 " $\frac{4}{4}$ D. seconds, 10″ to 12″, 5		15	
	3 cellar sash, 2′ 2″ x 18″, 1		3	
	Glazing & glass in same		1	
				37
Dec.	2. 200 ft. $\frac{4}{4}$ x 2″ flooring, 2			4
	Hauling to 16th & S N. W.			
	5. 7 prs. blinds, 9 x 14, $1\frac{1}{4}$, sta., 1.25		8 75	
	1 " " 9 x 16, $1\frac{3}{8}$, " 1.75		1 75	
	1,500 ft. $\frac{7}{8}$ #1 Va. pine flooring, $2\frac{1}{2}$		37 50	
				48
	Haul to 16th & S N. W.			
	6. 12 ft. 6″ crown, 4			48
	7. 10 p's 2 x 6—20=200 6 " 2 x 8—22=174 3 " 2 x 6—16= 48	422, $1\frac{3}{4}$	7 26	
				7 26
	500 ft. $\frac{4}{4}$ Va. sheathing		7 50	
	50 p's 2 x 4—10=350		5 25	
	1,000 ft. $\frac{4}{4}$ Va. p. #1 flooring		25	
	200 " $\frac{7}{8}$-sqr. corner strips		3	
1131*c*				
1881.				
Dec.	7. 200 ft. $\frac{4}{4}$ D. pick-culls, 8″		7	
	100 " " " " 12″		3 50	
	62 " $\frac{5}{4}$ " seconds, wide		3 41	
				54 66
	Haul to 16th & S St. N. W.			
	1 door frame, 2′ 10″ x 6′ 10″, $1\frac{3}{4}$ x $13\frac{1}{2}$″ jambs		3 50	
				3 50
	8. 2 mant*les*, shelves, .75		1 50	
	3 windows, 9 x 14, 12 l'ts, gla., 1.60		4 80	
	$1\frac{1}{2}$ " 9 x 16, "		2 75	
	15 p's 3 x 4—18=270, $1\frac{3}{4}$		4 72	
	30 " 3 x 4—10=300, $1\frac{1}{2}$		4 50	
				18 27
	Haul to 16 & S N. W.			
	9. 50 p's 2 x 4—20=650, $1\frac{3}{4}$			11 38
	Haul to 16th & S N. W.			
	1 set jambs, 2—8 x 9′ 0″, 6″		1	
	1 " 2′ 8″ x 8′ 0″, "		1	
	2 " 2′ 8″ x 7′ 0″, "		1 50	
	3 " 2′ 8″ x 6′ 8″, "		2 25	
	32 ft. $1\frac{3}{8}$ x $5\frac{3}{4}$ door jambs, 4		1 28	
	250 ft. 5 ins. wind. " 3		7 50	

	100 " sqr. corner strip, $1\frac{1}{2}$		1 50	
	15 p's 3 x 10—16=600 "		9	
	10 " 2 x 8—20=270, $1\frac{3}{4}$		4 73	
	5 " 2 x 8—14= 95 20 " 2 x 6—14=280 10 " 2 x 6—16=160	535, $1\frac{1}{2}$	8 03	
				37 79
	Haul to 16th & S St. N. W.			
12.	12 p's 2 x 3—16=96, 2		1 92	
	500 ft. Y. P. sheathing, $1\frac{1}{2}$		7 50	
				9 42
	Haul to 16th & S St. N. W.			

1131*d*

1881.

Dec. 14.	10 p's 3 x 10—16=400, $1\frac{1}{2}$		6	
	300 lin. ft. 1 x 3 Va. pine, $\frac{1}{2}$		1 50	
	300 ft. $\frac{4}{4}$ D. picks 12", $3\frac{1}{2}$		10 50	
	200 ft. $1\frac{1}{4}$" ogee, .80		1 60	
	4 sets ins. shut., 2' $8\frac{1}{2}$" x 6' 7", 4.00		16	
				35 60
	Haul to 16th & S N. W.			
" 15.	2 windows, 4 l'ts, 13 x 40, gla., 3		6	
	4 " " 13 x 36, " 2.75		11	
	600 lin. ft. 1 x 1 W. pine, .35		2 10	
	500 ft. W. P. edge culls, .19		9 50	
				28 60
	4 doors, 2' 6" x 7' 0", $1\frac{3}{8}$, M. 2 S., 2.75		11	
	32 ft. 3" crown, 2		64	
	1 set jambs, 2' 8" x 9' 0", 6", 1		1	
				12 64
	Haul to 16th & S St. N. W.			
" 16.	150 ft. $\frac{7}{8}$ x 12" D. picks, $3\frac{1}{2}$		5 25	
	150 " $\frac{7}{8}$ wide " 4		6	
	3 p's 4 x 4—16=63 D. 4 S., $3\frac{1}{2}$		2 21	
	3 " 2 x 8—18=72 D. 2 S., 3		2 16	
	10 " 2 x 10—16=270 select Va. pine, 2		5 40	
	2 prs. 9 x 20 sta. blinds, 2.00		4	
	4 " 9 x 18 " 1.80		7 20	
	175 lin. ft. 8" base #1, $3\frac{1}{2}$		6 13	
	90 " $\frac{5}{4}$ x 12 D. stepping, 4		3 60	
	32 " $\frac{5}{4}$ x 18 " 5		1 60	
				43 55
	Haul to 16th & S N. W.			
19.	2,000 ft. $\frac{7}{8}$ #1 flooring, $2\frac{3}{4}$		55	
	1,000 " 4" band, 2.40		24	
	504 " 6" base #1, $2\frac{1}{2}$		12 60	

1131*e*

1881.

Dec.	19.	506 ft. 6 base # 2, 2		10 12	
		506 " $\frac{6}{4}$ D. seconds, 5		25 30	
		26 " $\frac{5}{4}$ " selects, 6		1 56	
		304 " 8" base # 1, $3\frac{1}{2}$		10 64	
		89 " $\frac{5}{4}$ W. P. D. selects, 6		5 34	
					142 56
		Haul to 16th & S N. W.			
"	20.	2,000 ft. # 1 Va. flooring, $2\frac{3}{4}$			55
"	21.	3 sets ins. shut., 2 f'lds, 19" x 5' $3\frac{1}{2}$". 3 sets ins. shut., 2 f'lds, 23" x 5' $3\frac{1}{2}$". 4 sets ins. shut., 2 f'lds, 19" x 5' $11\frac{1}{2}$". 5 sets ins. shut., 2 f'lds, 23" x 5' $11\frac{1}{2}$".	80 ft. 1 M., @ 40.	32 03	
		All $\frac{7}{8}$ ogee flat panels W. P. hor. slat 4 mid. panel.			
		36 walnut easing, 1", 1.25		45	
		100 ft. wide fillet, $1\frac{1}{4}$		1 25	
		80 " narrow fillet, 1		80	
		111 long D. M. ash $1\frac{3}{4}$ bal., .10		11 10	
		51 short " " "		5 10	
		24 ft. 2 x $3\frac{1}{2}$" walnut rail, .16		3 84	
					99 12
		8 cir. nosing, $11\frac{1}{2}$ dia., 1		8	
		3 newel posts, 7", & cap, 3.50		10 50	
		24 doors, 2' 8" x 6' 8", $1\frac{1}{4}$, O. G., # 2, 1.78		42 72	
		9 doors, 2' 8" x 6' 8", $1\frac{3}{4}$, O. G., # 1, 2.25		20 25	
		1 door, 3' 0" x 7' 4", $1\frac{3}{8}$, M. 2 S., 3.50		3 50	
		6 doors, 3' 0" x 8' 0" " 3.55		21 30	
					106 27
		Haul to 16th & S N. W.			
"	22.	7 doors, 2' 8" x 7' 6", $1\frac{3}{4}$, F. M. 2 S., 5		35	
		2 " 3' 0" x 9' 0" " " 5.75		11 50	
					46 50
		Haul to 16th & S N. W.			

1131*f*

1881.

Dec.	24.	93 ft. $\frac{6}{4}$ D. seconds, 5		4 65	
		Haul to 621 La. Ave. N. W.		25	
					4 90
		200 ft. nosing, 2		4 00	
		Haul to 16th & K N. W.		25	
					4 25

27.	3 front doors, 2—10 x 6—10, 1¾, R. M., 5.50	16 50	
	3 vesti. doors, 2—8 x 6—8, 1¾, R. M., 5.25	15 75	
	300 ft. 1⅝″ ins. bead, 1	3 00	
	100 ft. 4″ carpet sills, 2	2 00	
	100 " hearth strips, 1½	1 50	
			38 75
	Haul to 16th & S N. W.		
27.	400 ft. ⅞ D. picks, 3½	14	
	100 ft. " " wide, 4	4	
	48 " ⅞" seconds, 5½	2 64	
	150 " " " wide, 5	7 50	
	100 " " W. P. partition "	5	
	500 " 1¼″ ogee, .80	4	
	300 " 1½″ " 1	3	
			40 14
			$1,230 85
	Haul to 16th & S N. W.		
1882.			
Jan'y 5.	By cash	$500	
" 10.	" "	200	
			700
" 27.	" " in full of above		$530 85

Rec'd payment,

THOS. W. SMITH.

1131*g* [Endorsed:] No. 13. F. H. Smith & Son. Feb. 9, 1882.

1132 In ac. with Mass. Mutual Life Ins. Co.

FEBRUARY 25TH.

1882.			
Feb'y 9.	By bal. acc't rendered		145 09
23.	" N. Y. draft		3,000 00
Feb'y 11.	To carpenters' pay-roll, 1800, '2, '4, '6 16th St.	113 00	
11.	" bricklaying (jobbing)	18 75	
11.	" ac. painting, 1607, '9, '11, '13 S St.	15 00	
11.	" ac. " (inside) 1804 16th St.	17 00	
11.	" ac. " (outside) 1802, '4, '6 16th	5 00	
13.	" city gas Co., p'r voucher	4 00	
14.	" wood & coal	12 50	
15.	" grading & sodding	4 75	
18.	" bricklaying (jobbing)	22 50	
18.	" carpenters' pay-roll, 1800, '2, '4, '6 16th St.	75 75	

	18.	To ac. painting, 1607, '9 '11, '13 S St.	30 00	
	20.	" watchman, 2 weeks to date	16 00	
	18.	" ac. painting outside, 1800, '2, '4, '6 16th St.	4 00	
	18.	" ac. painting & glazing inside, 1802, '4, '6 16th St.	20 00	
	25.	" bricklaying (jobbing)	18 75	
	25.	" carpenters' pay-roll, 1800, '2, '4, '6 16th St.	61 13	
	25.	" in full painting, 1607, '9, '11, '13 S St.	29 75	
	25.	" in full carpenters' contract, '11, '13 S St.	290 00	
	25.	" ac. painting, 1802, '4, '6 16th St.	18 00	
	25.	" concreting cor. house (1800 16th or 1601 S)	35 00	
	25.	" sand and laying sidewalk	7 68	
	25.	" city gas Co., as p'r vouchers	32 20	
	25.	" in full, mantels	127 00	
	25.	" hardware, 1800, '2, '4, '6 16th St.	52 72	
1132*a*				
	25.	To *in* latrobes & ranges	180 00	
	25.	" pointing & patching, 1607, '9, '11, '13 S street	10 00	
	25.	" ac. contract plastering, 1601 S (or 1800 16th)	80 00	
	25.	" paint bill (ch'g'd to painters & deducted from their contract)	31 85	
	25.	" ac. speaking-tubes & bells	25 00	
	25.	" commission 10 % on $3,000	300 00	
M'ch	3.	" balance to your credit	1,487 76	
			3,145 09	3,145 09

[On margin:] Voucher- No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29.

$113. Received of F. H. Smith and Son the sum of one hundred and thirteen $\frac{00}{100}$ dollars, being carpenter pay-roll, houses 1800, '2, '4, '6 16th St. N. W.

Washington, D. C., February 11th, 1882.

J. H. GIBBON.

O. K.

E. J. SWEET.

$18.75. Received of F. H. Smith and Son the sum of eighteen $\frac{75}{100}$ dollars, being for bricklaying (jobbing), 16th & S streets.

Washington, D. C., February 11th, 1882.

J. H. GIBBON.

O. K.

E. J. SWEET.

$15.00. Received of F. H. Smith and Son the sum of fifteen dollars, being ac. contract for painting houses 1607, '9, '11, '13 S street.
Washington, D. C., February 11th, 1882.
WILLIAM F. OGLE.

O. K.
E. J. SWEET.

1132*b* $17.00. Received of F. H. Smith and Son the sum of seventeen dollars, being ac. painting inside of houses 1804 & 1806 16th St. N. W.
Washington, D. C., February 11th, 1882.
SAMUEL MORTIMER.

O. K.
E. J. SWEET.

$5.00. Received of F. H. Smith & Son the sum of five $\frac{00}{100}$ dollars, being ac. painting outsides of 1802, '4, '6 16th street.
Washington, D. C., February 11th, 1882.
SYLVESTER B. MOTEN.

O. K.
E. J. SWEET.

$4.75. Received of F. H. Smith and Son the sum of four $\frac{75}{100}$ dollars, being for sodding & grading houses cor. 16th & S street.
Washington, D. C., February 18th, 1882.
BEN. QUALLS, mark x.

Witness:
J. H. GIBBONS.
O. K.
E. J. SWEET.

$22.50. Received of F. H. Smith and Son the sum of twenty-two $\frac{50}{100}$ dollars, being in full for bricklaying (jobbing) houses cor. 16th & S streets.
Washington, D. C., February 18th, 1882.
J. H. GIBBON,
For P. SCRIVENER.

O. K.
SWEET.

1132*c* $75.75. Received of F. H. Smith & Son the sum of seventy-five $\frac{75}{100}$ dollars, being carpenter's pay-rollto date, houses 1800, '2, '4, '6 16th street.
Washington, D. C., February 18, 1882.
J. H. GIBBON.

O. K.
E. J. SWEET.

$30.00. Received of F. H. Smith and Son the sum of thirty dollars, being ac. painting houses 1607, '9, '4, '11, '13 S street.
Washington, D. C., February 18th, 1882.
WILLIAM F. OGLE.

O. K.
E. J. SWEET.

$16.00. Received of F. H. Smith and Son the sum of sixteen dollars, being in full for services as watchman for two weeks to date, houses cor. 16 & S streets.
Washington, D. C., February 20, 1882.
J. D. HUTTON.

O. K.
E. J. SWEET.

$4.00. Received of F. H. Smith and Son the sum of four dollars, being ac. painting outsides of houses 1800, '2, '4, '6 16th street N. W.
Washington, D. C., February 18th, 1882.
S. B. MOTEN.

O. K.
E. J. SWEET.

1132*d* $20.00. Received of F. H. Smith & Son the sum of twenty dollars, being for ac. painting and glazing houses 1802, 1804, & 1806 16th street N. W.
Washington, D. C., February 18th, 1882.
S. MORTIMER.

O. K.
E. J. SWEET.

$18.75. Received of F. H. Smith & Son the sum of eighteen $\frac{75}{100}$ dollars, being for bricklaying (jobbing) houses corner 16th & S streets.
Washington, D. C., February 25th, 1882.
J. H. GIBBONS,
Per S. SCRIVENER.

O. K.
E. J. SWEET.

$61.13. Received of F. H. Smith & Son the sum of sixty-one $\frac{13}{100}$ dollars, being carpenters' pay-roll to date, houses 1800, 1802, '4, '6 16th St. N. W.
Washington, D. C., February 25, 1882.
J. H. GIBBON.

O. K.
E. J. SWEET.

$29.75. Received of F. H. Smith & Son the sum of twenty-nine $\frac{75}{100}$ dollars, being in full of balance due for contract painting houses 1607, '9, '11, '13 S street.
Washington, D. C., February 25, 1882.
WILLIAM F. OGLE.

O. K.
E. J. SWEET.

$290.00. Received of F. H. Smith & Son the sum of two hundred and ninety dollars, being bal. due on contract carpenter work houses 1607, '9, '11, '13 S street.
Washington, D. C., February 25, 1882.
D. D. THOMPSON.

O. K.
E. J. SWEET.

1132*e* $18.00. Received of F. H. Smith & Son the sum of eighteen dollars, being ac. contract painting & glazing houses 1802, '4, '6 16th St. N. W.
Washington, D. C., February 25th, 1882.

S. MORTIMER.

O. K.
E. J. SWEET

$7.68. Received of F. H. Smith & Son the sum of seven $\frac{68}{100}$ dollars, being for 6 loads of sand, laying 34 yards of sidewalk, 16th & S streets.
Washington, D. C., Feb'y 25, 1882.

his
BEN. x QUALLS.
mark.

O. K.
E. J. SWEET.

$10.00. Received of F. H. Smith & Son the sum of ten dollars, being in full for pointing and patching up houses 1607, '9, '11, '13 S street.
Washington, D. C., February 25, 1882.

his
S. x HOPKINS.
mark.

O. K.
E. J. SWEET.
Witness:
F. M. GREEN.

$80.00. Received of F. H. Smith & Son the sum of eighty dollars, being ac. contract for plastering house corner 16th and S streets N. W.
Washington, D. C., February 25, 1882.

G. H. DU PONTE.

O. K.
E. J. SWEET.

$25.00. Received of F. H. Smith & Son the sum of twenty-five dollars, being ac. bell-hanging & speaking tubes, 16th & S streets.
Washington, D. C., February 25th, 1882.

J. H. KUEHLING.

O. K.
E. J. SWEET.

1132*f* Received, Washington, D. C., Feb. 25, '82, of F. H. Smith & Son four dollars, to introduce gas into house No. 1601 S. N. W. & 1802, 1804, 1806 16 N. W.

WASHINGTON GAS L'T CO.,
P'r JAS. G. SMITH.

O. K.
E. J. SWEET.

FEB. 21, 1882.

Mr. F. H Smith & Son, No. 1609 S St. N. W., to the Washington Gas Light Company, Dr.

For use of 46 feet of 1-inch service pipe, and laying same, @ 25c. p'r ft.	11 50
For use of 46 feet of 1-inch service pipe, and laying same, @ 25c. p'r ft.	
For use of 46 feet of 1-inch service pipe, and laying same, @ 25c. p'r ft.	
For connection, stop-cock, &c., for 1 3-l't meter	2 00
4 1-inch bends, @ 15c. each	60
	$14 10

Received payment for the company,

W. B. ORMES.

Washington, D. C., Feb. 25, 1882.

FEB. 21ST, 1882.

Mr. F. H. Smith & Son, No. 1611 S St. N. W., to Washington Gas Light Company, Dr.

For use of 46 feet of 1-inch service pipe, and laying same, @ 25c. p'r ft.	$11 50
Connection, stop-cock, &c., for 1 3-l't meter	2
4 1-inch bends, @ 15c. each	60
	$14 10

Received payment for the company,

W. B. ORMES.

1132*g* WASHINGTON, *Feb.* 18*th*, 1882.

F. H. Smith & Son to E. J. Story, Dr.

To job concrete work, N. W. corner 16th and S St. N. W., $100\frac{2}{9}$ y'ds, 35c.	$35 00

Received payment, E. J. STORY.

O. K.
E. J. S.

WASHINGTON, D. C., *Feb.* 18, 1882.

Mr. F. H. Smith & Son, for buildings 16 & S streets, bought of Wm. Muirhead; office and yard, 1532 Fourteenth street N. W.

1882.

Jan'y 25.	$\frac{1}{2}$ cord S. oak	3 75
" 31.	$\frac{1}{2}$ ton coal	3 25
Feb. 11.	$\frac{1}{3}$ cord S. oak	3 75
" 16.	$\frac{1}{4}$ ton W. A. coal	1 75
		12 50

Rec. payment,

W. MUIRHEAD.

O. K.
E. J. SWEET.
Above correct.
J. H. GIBBONS.

Received, Wash., D. C., Feb. 17, 1882, of F. H. Smith & Son four dollars, with which to obtain for the purpose of introducing gas into houses No. 1603, 1607, 1609, '16 S N. W.

WASHINGTON GAS L'T CO.
JAMES G. SMITH.

O. K.
E. J. SWEET.

1132*h* WASHINGTON, D. C., *Jan.* 28, 1882.

Messrs. Smith & Co. to T. Toumey, Dr.

Washington steam marble and slate mantel works, 1320 Penn. Ave. and 407 13½ St. N. W.

Dec.	27.	2	marbleized mantels,	$18.00 each	36 00	
Jan.	8.	4	do.	$15.00 each	60 00	
"	14.	6	do.	$18.00 each	108 00	
"	21.	6	do.	$18.00 each	108 00	
"	24.	3	brackets & shelves,	$5.00 each	15 00	
						327 00
Feb'y	1.	By cash				200 00
						127 00

Received payment,

T. TOUMEY.

O. K.
E. J. SWEET.

WASHINGTON, D. C., *Feb'y* 17*th*, 1888.

Mass. Mutual Life Insurance Company bought of Edward Caverley & Co., dealers in gas fixtures, grates, fenders, open fireplaces, &c.

3 No. 7 Paragon ranges for 1802, 1804, and 1806 16th St. N. W., @ 23.50	70 50	
6 Sunlight latrobes for same, @ $30	180	
Setting 1 grate at No. 1603 S. St.	23 50	
1 hearth, & setting same	6	
	29 50	
		280
Cr. by cash on ac.		100
Bal. due		180

Rec'd payment,

EDW. CAVERLEY & CO.

O. K.
E. J. SWEET.

1132*i* WASHINGTON, D. C., *Feb. 9th*, 1882.

Messrs. F. H. Smith & Son bought of G. W. Rearden, dealers in paints, oils, glass, &c., No. 925 Seventh St. N. W., near K.

Jan.	10.	To 4 gal. B. oil, 3.00; 6 lb metallic, .30	3	30
"	20.	" 5 " 3.75; 25 lb L. lead, 2.15	5	90
"	26.	" 1 " .75; 25 lb " 2.00	2	75
"	31.	" 4 " 3.00; 1 gal. turp., .65	3	65
Feb.	3.	" 2 " 1.50; 25 lb lead, 2.00	3	50
		" 1 gal. turp'e, .65; 1 p't dyers, .15		80
	4.	" 1 " oil, .75; 50 lb lead, 4.00	4	75
	8.	" 2 " " 1.50; 1½ — turp., .98	2	48
		" 25 lb lead, 2.00; 6 lb brandon, .25	2	25
		S. paper, .05; metallic & putty, .16		21
		To 1 p't dyers, .15; colors, .11		26
			29	85
		Order for brushes		2
			31	85

Received payment,

GEO. W. REARDEN.

O. K.
E. J. SWEET.

1132*j* WASHINGTON, D. C., *Feb'y 1st*, 1882.

Mess. F. H. Smith & Son bought of Bernard Bailey.

Jan'y	3d.	1 bucket, .35; 1 cup, .10		45
	7.	1 p'r door irons, .50; 1 pick h'dle, .20		70
		2 gro. scs., 1½, .88; 6 dz. butts, 2.10	2	98
		4 " ⅝, .60; 12 dz. sash cord, 5.26	5	86
	10.	6 hoox & sta., 14, 1.35; 2 dz. sash *lox*, 2.50	3	85
		1 qr. sand paper, .25; 30 lb fin. nails, 1.80	2	05
	13.	1 broom, .30; (14) 1 shovel, .50		80
	14.	1 dz. butts & screws, 1.40; (16) 1 dz. hoox & eyes, 5.40	1	80
		½ dz. buttons, .10; (18) 4 p'r butts, .30		40
	18.	3 lb lath nails, 21c.; 1 doz. nail scr., 1 n. 5, .45		66
		½ dz. pulleys, .18; 1 keg nails, 8, $3.85	4	03
	19.	1 " rail screws, 4½, .40; 30 lb nails, ass'd, 1.50	1	90
		1 p'r brads, ½, 30c.; 3 p'r brads, .42		72
	21.	6 rim *lox* & porce. knobs, 3.36; 1 axe h'dle, .15	3	51
		1 keg nails, 3 fine, 6.00; (24) 1 padlox, .40	6	40
		1 dz. ho-x & eyes, .40; (25) 1 dz. butts, nar., .35		75
	25.	24 ft. S. D. rail, 1.20; 1 gro. scr., .20	1	40
		1 scraper, .50; (26) 1 dz. nar. butts, .35		85
	26.	2 gro. scs., ⅝, .24; (30) 3 pa. brads, .38		62

30. 12 wro. bbl. bol-s & scs., 1.80; 3 hoox & sta., .30 ..... 2 10
1 qr. sand paper, .25; 5 lb glue, 1.25 ..... 1 50
4 mort. *lox*, porce. knob, 3; 2 mort. *lox*, plated trim-ings & knobs, 2.40 ..... 5 40
31. 4 bdls. sash cord, 2.23; 3 thumb latches, .45 .. 2 68
1 dz. nar. butts, 1¾, .35; 12 p'rs butts, 3 x 3, .96 ..... 1 31
——— $52 72

Above correct.
J. H. GIBBONS.

Paid.

B. BAILEY,
Per HAGERTY.

Feb. 25, '82.

O. K.
E. J. SWEET.

1132*jj* [Endorsed:] No. 14. F. H. Smith & Son. Feb. 25, 1882. $52.72.

1132*k* $20.25. Rec'd of F. H. Smith the sum of twenty ²⁵ dolls., being in full for bricklaying (jobbing), house cor. 16 & S streets N. W., for week ending to-day.
Wash., D. C., M'ch 4, 1882.
(S'd) PEYTON SCRIVENER.

O. K.
(S'd) E. J. SWEET.

1132*l* $17.00. Rec'd of F. H. Smith & Son the sum of seventeen dolls., being ac. contract for painting 1802, '4, '6 16 St.
Wash., D. C., M'ch 4, '82.
(S'd) S. MORTIMER.

O. K.
(S'd) E. J. SWEET.

1132*m* $300.00. Rec'd of F. H. Smith & Son the sum of three hundred dolls., being ac. contract plum-ing houses cor. 16 & S streets.
Wash., D. C., M'ch 4, '82.
(S'd) JOHN MITCHELL.

O. K.
E. J. SWEET.

1132*n* $30.00. Rec'd of F. H. Smith & Son the sum of thirty dolls., being $15.00 each and in full for carpenter work for week end'g this day, house 1601 S.
Wash., D. C., M'ch 4, '82.

S. E. TROTT.
SAM'L T. CLARK.

O. K.
(S'd) E. J. SWEET.

1132*o* WASH., D. C., *Jan'y* 31, 1882.

Smith & Son to Sayer & Co., Dr.

Jan'y	3.	To 43′ 6 of bluestone, @ .35	$15 05
	9.	" 1 peice of Ohio stone, 3′ 9, 2′ 7″ x 3″ = 9 8, @ .45	4 35
	12.	" 1 piece of bluestone, 3′ 4 x 2′ 6′, @ .35	2 92
			$22 32

Rec'd paym't,

SAYERS & CO.

O. K.
(S'd) E. J. SWEET.

Above correct.

I. H. GIBBONS.

1132*p* $16.00. Rec'd of F. H. Smith & Son the sum of sixteen dolls., being in full services as watchman, 2 w'ks to date, houses cor. 16 & S St-.
Wash., D. C., M'ch 6, '82.
(S'd) J. D. HUTTON.

O. K.
(S'd) E. J. SWEET.

1132*q* $30.00. Rec'd of F. H. Smith & Son the sum of thirty dolls., being $15.00 each and for our services as carpenters at Balloch houses in full for week ending 11th M'ch.
Wash., D. C., M'ch 11, '82.
(S'd) SAMUEL T. CLARK.
(S'd) S. E. TROTT.

O. K.
(S'd) E. J. SWEET.

1132*r* $100.00. Rec'd of F. H. Smith & Son the sum of one hundred dollars, being ac. lumber furnished Balloch houses, cor. 16 & S St-.
Wash., D. C., M'ch 11, '82.
(S'd) THOS. W. SMITH,
P'r SCT.

O. K.
(S'd) E. J. SWEET.

1132*s* $25.00. Rec'd of F. H. Smith & Son the sum of twenty-five ^{00} dolls., being ac. bell-hanging, Balloch houses, cor. 16 & S St-.
Wash., D. C., M'ch 11, '82.
(S'd) J. H. KUEHLING.

O. K.
E. J. SWEET.

1132*t* WASH., *M'ch* 11, 1882.

The Mass. Mu. Life Ins. Co. to Edward Caverly & Co., Dr.

M'ch 1. To contract for gas fixtures for 1607, 1609, 1611, & 1613 S St. N. W., @ 26.00 per house $104 00

Rec'd paym't,
(S'd) EDWARD CAVERLY & CO.

O. K.
(S'd) E. J. SWEET.

1132*u* WASH., D. C., *M'ch* 1, '82.

Mess. F. H. Smith & Son to Bernard Bailey, Dr.

Feb'y 1.	4 bdl. sash cord, 2.23; 3 th. latches, .45	2	68
	12 pr. butts, 3 x 3, .96; 12 pr. butts, 1¾, .35	1	31
	4 " " 2 x 2, .32; 4 neck bols., .40		72
	4 hoox & eyes, .12; 3 sprg. catches, .45		57
	1 gro. scs., 1, .25; (2) 30 lb sash wts., .41		66
2.	1 coal-hod, .35; (3) 2 set- S. D. sheares, 2.00	2	35
3.	2 S. D. lox & 2 pr. porc. knobs & escts., 1.80	3	60
7.	121 lb sash wts., 1.63; 1 gro. scs., 1¼, .43	2	06
	1 gro. scs., .31; 4 clos. lox, .60		91
	4 pr. butts, 2 x 2, .32; 10 nail- & fin., .60		92
	10 rim. lox & knob, .40; pr. butts & scs., 3 x 3, .15		55
	½ G. rail scs., 2 n., .25; (14) lot blind staples, .10		35
	1 gro. scs., ⅝, .15; 12 pr. butts, 1¾, .32		47
	2 pr. brad-, .24; (16) 20 pr. nail-, 30, 1.00	1	24
	1 porc. pl'd door knob, .40; (18) 10 pr. nail-, 10, .50		90
	4 pr. lt. hgs., sec., .80; 3 pr. nail-, 20, .21	1	01
	30 lb nail-, 3 fin., 1.80; (21) 1 qr. sand paper, .25	2	05
	1 key, 5; 1 gro. scs., ⅝, .20		25
	1 por. knob, frt. trim., 1.40; (22) 1 G. rail scs., 1 n., .45	1	85
	70 lb nail-, 3 fine, 4.20; 1 G. rail scs., 2, .60	4	80
23.	15 " fine, .90; 3 pr. brad-, 40	1	30
	1½ Co. H. hoox, .23; 8 lag scs., .40		63
25.	7 b. yd. shut. bar, 2.45; 7/12 b. yd. sash lox, 1.17	3	62
		$34	80

Rec'd paym't M'ch 11, '82.
(S'd) B. BAILEY,
P'r HAGERTY.

O. K.
E. J. SWEET.

Above correct.
J. H. GIBBONS.

1132*v* $50.00. Rec'd of F. H. Smith & Son the sum of fifty ⁰⁰ doll's, being ac. contract plastering house 1601 S St. N. W.
Wash., D. C., M'ch 11, '82.
(S'd) G. H. DU PONT.

O. K.
(S'd) E. J. SWEET.

1132*w* $18.55. Rec'd of F. N. Smith & Son the sum of eighteen ⁵⁵ doll's, being for laying 64 yds. sidewalk, 6 loads sand, hauling & sodding, Balloch houses, 16 & S Sts.
Wash., D. C., M'ch 11, '82.

his
BEN. x QUALLS.
mark.

O. K.
(S'd) E. J. SWEET.

Witness:
F. B. SMITH.

1132*x* $12.00. Rec'd of F. H. Smith & Son the sum of twelve ⁰⁰ doll's, being ac. painting houses 1802, '4, '6 16th St. N.W.
Wash., D. C., M'ch 11, '82.
(S'd) SAM'L MORTIMER.

O. K.
E. J. SWEET.

1132*y* Mess. F. H. Smith & Son to J. T. Walker's Sons, Dr., 204 10th St. N. W., Wash., D. C.

Feb'y	3.	2 bbl. lime	$2 00
	18.	16½ bu. hair	4 63
		15 bbl. lime	13 50
		1 bbl. Portland	4 25
			$24 38

Paid.
(S'd) J. T. WALKER'S SONS.

O. K.
E. J. SWEET. (O. K.)

1133 F. H. Smith & Son, 515 7 St. N. W., in account with Mass. Mutual Life Ins. Co.

WASH., D. C., *M'ch* 13.

1882.				
M'ch	3.	By bal. this date		1,487 76
	4.	To bricklaying (jobbing)	20 25	
	4.	" ac. painting, 1802, '4, '6 16 St.	17 00	
	4.	" ac. plumbing	300 00	

4.	To carpenters, 1601 S St., 1800 16	30 00	
4.	" stone, " " "	22 32	
6.	" watchman, 2 w'ks to date	16 00	
11.	" carpenters, 1601 S	30 00	
11.	" lumber	100	
11.	" ac. bell-hanging	25	
11.	" gas fixtures, 1607, '9, '11, '13 S St.	104	
11.	" hardware	34 80	
11.	" ac. plastering, 1601 S	50 00	
11.	" laying sidewalk, sand, & sodding	18 55	
11.	" ac. painting, 1802, '4, '6 16 St.	12	
	" lime, hair, & cement	24 38	
13.	" balance to your cr.	683 46	
		1,487 76	1,487 76

(S'd) F. H. SMITH & SON.

15 vouchers herewith.

[On margin:] Vouchers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15.

[Endorsed:] F. H. Smith & Son. M'ch 13, 1882. No. 15.

1133*a* WASHINGTON, D. C., *M'ch* 17, 1882.

Mr. Sweet to H. C. Ross, Dr.

19 load- sand at 60c. per load	$11	40
4 " " 50 "	2	00
	13	40

Rec'd paym't,

H. C. ROSS.

O. K.
(S'd) E. J. SWEET.

1133*b* $16.00. Rec'd of F. H. Smith & Son the sum of sixteen ^{00} doll's, being in full for services 2 weeks to date as watchman Balloch houses.

Wash., D. C., M'ch 20, '82.

(S'd) J. D. HUTTON.

O. K.
(S'd) E. J. SWEET.

1133*c* $14.91. Rec'd of F. H. Smith & Son the sum of fourteen ^{91} doll's, being in full for bal. due for painting 1802, '4, '6 16 St. N. W.

Wash., D. C., M'ch 18, '82.

(S'd) S. MORTIMER.

O. K.
E. J. SWEET.

1133*d* $15.00. Rec'd of F. H. Smith & Son the sum of fifteen ⁰⁰ doll's, being ac. laying walks in front of 1804 16th & 1607, 1609, 1611, & 1613 S St.
Wash., D. C., M'ch 18, '82.

his
BEN. x QUALL.
mark.

O. K.
(S'd) E. J. SWEET.

Witness:
(S'd) F. B. SMITH.

1133*e* $30.00. Rec'd of F. H. Smith & Son the sum of thirty ⁰⁰ doll's, being $15.00 each for carpenters' work for week ending 18th M'ch, house cor. 16 & S St.
Wash., D. C., M'ch 18, '82.
(S'd) S. T. CLARK.
(S'd) S. E. TROTT.

O. K.
(S'd) E. J. SWEET.

1133*f* $6.00. Rec'd of F. H. Smith & Son the sum of six ⁰⁰ d-ll's, being for hauling curbstone & cobble-stone furnished by city gov't for sidewalk for houses 1607, '9, '11, '13 S St.
Wash., D. C., M'ch 17, '82.
(S'd) GEO. W. KNOX, *Sec'y.*

O. K.
(S'd) E. J. SWEET.

1133*g* $25.00. Rec'd of Mass. Mu. Life Ins. Co. the sum of twenty-five ⁰⁰ doll's, being for $2,000 fire ins. for 1 year each on 1802, '4, & '6 16 St.; 4,000 on 1601 S (or 1800 16 St.), the policies being retained here in view of probable immediate sale of the houses.
Wash., D. C., M'ch 16, '82.
(S'd) F. H. SMITH & SON, *Ag't.*

O. K.
E. J. SWEET.

1133*h* FEB'Y 21, 1882.

Mr. F. H. Smith & Son, 1607 S St., to the Washington Gas Light Co., Dr.

For use of 46 ft. 1 in. service pipe and laying same @ 25 cents p'r foot	$11 50
Connecting stop-cock, &c., for 1 3-l't meter	2 00
4 1-inch bend- @ 15 each	60
	14 10

Rec'd paym't for the company,
(S'd) W. B. ORME.

Wash., D. C., M'ch 14, '82.

1133*i* FEBR'Y 21, 1882.

F. H. Smith & Son, 1613 S N. W., to Washington Gas Light Co., Dr.

For use of 46 ft. of 1-inch service pipe and laying same @ 25 cts. p'r foot	$11 50
Connecting stop-cock for 1 3-l't meter	2 00
2 1-inch bend- @ 15c. each	60
	14 10

Rec'd paym't for Co.,

W. B. ORME.

Wash., D. C., M'ch 14, '82.

1134 WASH., D. C., *M'ch* 20, '82.

Mass. Mu. Life Ins. Co. in account with F. H. Smith & Son.

M'ch	13.	By balance		$683 46
	14.	To gas ser-ices, houses 1607 & 1613 S St.	28 20	
	16.	" fire ins, $4,000, 1016 S; $2,000 ea. 1802, '4, '6 16	25 00	
	17.	" hauling curb & cobble stone, see voucher	6 00	
	18.	" carpenter, 1601 S.	30 00	
	18.	" sand for sidewalk	13 40	
	18.	" laying "	15 00	
	18.	" in full painting, 1802, '4, '6 16	14 91	
	20.	" watchman, 2 weeks to date	16 00	
		balance	534 95	
			683 46	683 46

8 vouchers herewith.

[On margin:] Vouchers 1, 2, 3, 4, 5, 6, 7, 8.
[Endorsed:] F. H. Smith & Son. Statement of M'ch 7, 1882. No. 16.

1134*a* $30.00. Rec'd of F. H. Smith & Son the sum of thirty 00 dol'rs, being $15.00 each and in full for carpenters' work for week end'g this day, Balloch houses, cor. 16th & S St.
Wash., D. C., M'ch 25, '82.

(S'd) S. T. CLARK.
(S'd) S. E. TROTT.

O. K.
(S'd) E. J. SWEET.

1134*b* $200.00. Received of F. H. Smith and Son the sum of two hundred dollars, being ac. iron steps for Balloch houses fronting on 16th St. N. W., bet. S & T.
Washington, D. C., March 21, 1882.

GEO. WHITE & CO.

O. K.
E. J. SWEET.

1134*c* $20.00. Rec'd of F. H. Smith & Son the sum of twenty-doll's, being ac. laying sidewalk & gutters in front of houses 1607, '9, '11, '13 S St.
Wash., D. C., M'ch 25, '82.

his
BEN. x QUALLS.
mark.

Witness:
F. B. SMITH.

O. K.
E. J. SWEET.

1134*d* $15.00. Rec'd of F. H. Smith & Son the sum of fifteen doll's, being ac. contract for plastering house 1601 S St. N. W.
Wash., D. C., M'ch 30, '82.
(S'd) G. H. DU PAUL.

O. K.
(S'd) E. J. SWEET.

1134*e* $2.50. Rec'd of F. H. Smith & Son the sum of two ^{50} doll's, being for hauling dirt from front of 1607, '9, '11, '13 S St.
Wash., D. C., Apr. 1, '82.

his
BEN. x QUALLS.
mark.

Witness:
F. B. SMITH.

O. K.
(S'd) E. J. SWEET.

1134*f* $16.00. Rec'd of F. H. Smith & Son the sum of sixteen doll's, being for services as watchman 2 weeks to date, Balloch houses, cor. 16 & S St.
Wash., D. C., May 1, '82.

J. D. HUTTON.

O. K.
E. J. SWEET.

1134*g* $2.25. Rec'd of F. H. Smith & Son the sum of two $\frac{25}{00}$ dol's, being for whitewashing Balloch houses.
Wash., D. C., Ap. 4, '82.

his
SAM'L x JOHNSON.
mark.

O. K.
(S'd) E. J. SWEET.

1134*h* $5.00. Rec'd of F. H. Smith & Son the sum of five doll's, being for repairing plastering — houses 1603 S St. N. W.
Wash., D. C., Apr. 13, '82.
(S'd) E. J. SMITH.

O. K.
(S'd) E. J. SWEET.

1134*i* $18.00. Rec'd of F. H. Smith & Son the sum of eighteen doll's, being for sodding yard 1601 S St. & 1802 16 Sts., Balloch houses.
Wash., D. C., Apr. 8, '82.

his
BEN. x QUALLS.
mark.

Witness:
F. B. SMITH.

O. K.
(S'd) E. J. SWEET.

1134*j* $15.00. Rec'd of F. H. Smith & Son the sum of fifteen dollars, being for six days' work carpentering on house No. 1601 S St., cor. 16 & S St.
Wash., D. C., Apr. 15, '82.
(S'd) MANUEL GORDON.

O. K.
(S'd) E. J. SWEET.

1134*k* $10.00. Rec'd of F. H. Smith & Son the sum of ten dollars, being for whitewashing & kalsomining walls of house 1603 S St.

his
SAM. x JOHNSON.
mark.

Witness:
F. B. SMITH.

O. K.
(S'd) E. J. SWEET.

1134*l* $50.00. Rec'd of F. H. Smith & Son the sum of fifty dollars, being ac. plastering house 1601 S street.
Wash., D. C., Apr. 15, '82.
(S'd) G. D. W. PAUL.

O. K.
(S'd) E. J. SWEET.

1134*m* $5.00. Rec'd of F. H. Smith & Son the sum of five doll's being ac. sodding 1601 S St. N. W.
Wash., D. C., Apr. 15, '82.

his
BEN. x QUALS.
mark.

Witness:
F. B. SMITH.

O. K.
E. J. SWEET.

1134*n* $6.00. Rec'd of F. H. Smith & Son the sum of six doll's, being for bricklaying, Balloch houses' sidewalks.
Washington, D. C., Apr. 15, '82.
(S'd) ANTHONY BROOKS.

O. K.
(S'd) E. J. SWEET.

1134*o* $10.00. Rec'd of F. H. Smith & Son the sum of ten doll's, being ac. painting 1601 S St.
Wash., D. C., Apr. 15, '82.
(S'd) SAMUEL MORTIMER.

O. K.
(S'd) E. J. SWEET.

1134*p* $16.00. Rec'd of F. H. Smith & Son the sum of sixteen doll's, being for services as watchman 2 weeks to date, Balloch houses.
Wash., D. C., Apr. 17, '82.
J. D. HUTTON.

O. K.
(S'd) E. J. SWEET.

1134*q* $27.50. Rec'd of F. H. Smith & Son the sum of twenty-seven .50 doll's, being for grading & sodding 1601 S St., back & front.
Wash., D. C., Apr. 22, '82.
his
BEN. x QUALL.
mark.

O. K.
(S'd) E. J. SWEET.

Witness:
F. B. SMITH.

1134*r* $12.00. Rec'd of F. H. Smith & Son the sum of twelve doll's, being ac. painting 1601 and 1603 S St.
Wash., D. C., Apr. 22, '82.
S. S. MORTIMER.

O. K.
(S'd) E. J. SWEET.

1134*s* $102.25. Rec'd of F. H. Smith & Son the sum of one hundred two .25 doll's, being carpenter pay-roll 1601 S St. for week ending Apr. 22.
Wash., D. C., Apr. 22, 1882.
(S'd) S. T. CLARK.

O. K.
(S'd) E. J. SWEET.

1134*t* $147.50. Rec'd of F. H. Smith & Son the sum of one hundred forty-seven .50 dolls., being in full for balance due for iron front steps for Balloch houses, cor. 16 & S St.
Wash., D. C., Apr. 29, '82.
(S'd) GEO. WHITE & CO.

O. K.
(S'd) E. J. SWEFT.

1134*u* Frank H. Smith & Son to J. T. Walker's Son.

1 bbl.	r. turp.	1 75
1 "	Portland	4 25
		6 00

Paid.
(S'd) J. T. WALKER & SON.
Apr. 29, 1882.

O. K.
E. J. SWEET.

1134*v* $16.00. Rec'd of F. H. Smith & Son the sum of sixteen dolls., being for services as watchman 2 weeks to date, Balloch houses, cor. 16 & S.
Wash., D. C., Apr. 3, '82.
J. D. HUTTON.

O. K.
(S'd) E. J. SWEET.

1134*w* $6.00. Rec'd of F. H. Smith & Son the sum of six dols., being ac. sodding & filling back yard 1601 S St.
Wash., D. C., Apr. 29, '82.
his
BEN. x QUALLS.
mark.

Witness:
F. B. SMITH.

O. K.
(S'd) E. J. SWEET.

1134*x* $110.25. Rec'd of F. H. Smith & Son the sum of one hundred ten .25 dolls., being carpenters' pay-roll house 1601 S St. N. W., week ending this date.
Wash., D. C., Apr. 29, '82.
(S'd) S. T. CLARK.

O. K.
E. J. SWEET.

1134*y* Mess. F. H. Smith & Son to G. W. Rearden, 925 7 N. W., Dr.

Feb'y 12.	To 50 lbs. lead, 4.00; 1 gal. turp., .65; oil, .94		5 09
15.	" 25 " " 2.00; 1 brush, .65; oil, .94		3 59
	" turp, &c., .82; 2 umber, .40; 4 putty, .16		1 38
	" 1 umber, .10; 4 brandon, &c., .25		35
	" 12½ lead, 1.00; 2 gal. B. oil, 1.50		3 50
	" ½ gal. turp., .33; lot glass, en'd, 6.30		6 63
20.	" 1 l't, 18 x 32, .50; 1 l't, 12 x 18, .12		62
	" 2 gal. B. oil, 1.50; 6 umber, 1.20		2 70
	" 4 putty, .20; 2 gal. turp., 1.30		1 50
24.	" brush, .65; simbay, .15		80
28.	" H. O. fin., 2.12; duster, .65; ½ gal. B. oil, .38		3 15
	" 1 gal. turp., .65; 1 umber, .20		85
Mar. 3.	1 " B. oil, .75; 1 gal. turp, .65; 1 lb. glue, 15		1 55
	2 lbs. umber, .40; 2 P. white, .10; 1 metal'c, .04		54
	½ H. O. fin., .75; lot dry., .16		91
10.	16 ft. enam. glass, 4.80; 2 l't, 10 x 14, .16		4 96
	1 l't, 12 x 14, .10; 1 l't, 10 x 14, .09		19
	1 " 9 x 14, .07; 3 " 10 x 14, .27		34
	4 " 10 x 14, .28; 6 lb putty, .35		53
	½ lb umber, .05; 1 pkg. kal., .60		65
	½ lb glue, .08; 1 lb alum, .05		13
	oil		43
			38 44

Rec'd pay'nt,

GEO. W. REARDEN.

O. K.

E. J. SWEET.

1135 F. H. Smith & Son, 515 7th St. N. W., Wash., D. C., in ac. with Mass. Mu. Life Ins. Co.

MAY 3.

1882.			
M'ch 20.	By balance as per ac. of this date		$534 95
21.	To ac. iron steps, 16-St. house	200	
25.	" carpenter, 1601 S St.	30	
	" ac. laying sidewalk & gutter, S St.	20	
	" paint bill	38 44	
Apr. 3.	" ac. plastering, 1601 S St.	15	
	" grading & hauling, S	2 50	
	" watchman, 2 w'k- to date	16	
	" whitewashing	2 25	
8.	" rep. plastering, 1603 S St. N. W.	5	
	" sodding, 1601 S	18	
	" carpenter, 1601 S	15	
	" whitewashing, 1603 S	10	
	" plastering, 1601 S	50	
	" sodding, 1601 S	5	
	" bricklaying, sidewalk	6	

15.	To ac. painting, 1601 S		10	
17.	" watchman, 2 w'k- to date		16	
	" sodding & grading, 1601 S		27 50	
	" ac. painting		12 00	
	" carpenters		102 25	
	" iron steps, 16 & S		147 50	
29.	" cement, &c.		6	
	" carpenter, 1601 S		110 25	
	" sodding & grading b'k y'd		6	
	" watchman, 2 w'k- to date		16	
	" balance			351 74
		886 69		886 69

F. H. SMITH & SON.

25 vouchers herewith.

[On margin:] Vouchers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25.

[Endorsed:] F. H. Smith & Son. May 3, 1882. No. 17.

1136 F. H. Smith & Son, 517 7th street N. W., Washington, D. C., in ac. with Mass. Mutual Life Ins. Co., construction of Balloch houses.

WASHINGTON, D. C., *June 27th*, 1882.

1882.				
May 15.	By New York draft			$2,500
3.	To balance, see ac. this date	$351 74		
6.	" papering, 1603 S St.	38 50		
6.	" ac. painting, 1601 S St.	25		
6.	" carpenters, "	108		
9.	" ac. plastering, "	25		
Ap'l 8.	" ac. carpenters, "	5		
8.	" carpenters, "	15		
May 13.	" ac. painting, 1601 S	38		
15.	" Wash. Brick Machine Co.	81 60		
15.	" paint bill, Rearden	21		
15.	" watchman, 2 weeks	16		
17.	" hardware	160 90		
17.	" plumbing	222 24		
20.	" painting, 1601 S	26		
22.	" stoves, "	170 50		
23.	" sidewalks, 1607, '9, '11, '13 S	8 50		
24.	" lumber	641		
27.	" bell-hanging	15		
27.	" watchman, 2 weeks	16		
27.	" painting	11		
June 8.	" mantles	229		
12.	" paint bill	13 32		
20.	" plastering, 1601 S	23 75		
27.	" commission, 10% on $2,500	250		
27.	By balance			12 05
		$2,512 05		2,512 05

[On margin:] Voucher- No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22.

[Endorsed:] No. 18.

1136*a* WASH., D. C., *May* 6, 1882.

Mr. Sweet, 1603 S, to J. F. Spelhouse, ag't, 521 7 St. N. W., Dr.

To papering for cor. S-St. houses $38 50

Rec'd paym't,

J. F. SPELLHOUSE, *Ag't.*

O. K.
E. J. SWEET.

1136*b* $25.00. Received of F. H. Smith & Son the sum of twenty-five dolls., being ac. contract for painting 1601 S St. N. W.
Wash., D. C., May 6, '82.

SAM'L MORTIMER.

O. K.
(S'd) E. J. SWEET.

1136*c* $108. Rec'd of F. H. Smith & Son the sum of one hundred eight dolls., being carpenters' pay-roll for week ending this day, house 1601 S St. N.W.
Washington, D. C., May 6, '82.

S. T. CLARK.

O. K.
(S'd) E. J. SWEET.

1136*d* $25.00. Rec'd of F. H. Smith & Son twenty-five dolls., being ac. plastering house 1601 S St. N.W.
Wash., D. C.
(S'd) G. H. DU PONT. (S'd)

O. K.
(S'd) E. J. SWEET.

1136*e* $5.00. Rec'd of F. H. Smith & Son the sum of five dolls., being for carpenter work Balloch houses to date.
Washington, D. C., Apr. 8, 1882.
(S'd) MANUEL GORDON.

O. K.
E. J. SWEET.

1136*f* $15.00. Rec'd of F. H. Smith & Son the sum of fifteen doll's, being for 3 days' work for J. M. C. and 2½ for L. A. T., carpenter- cor. house, 16 & S Sts. N. W.
Wash., D. C., Apr. 8, '88.
(S'd) J. M. CARRICO.
(S'd) L. A. TUELL.

O. K.
(S'd) E. J. SWEET.

1136*g* $38. Rec'd of F. H. Smith & Son the sum of thirty-eight doll's, being ac. contract for painting house, 1601 S St. N. W., leaving a balance due of $37.00.

Wash., D. C., May 13, '82.

S. MORTIMER.

O. K.
(S'd) E. J. SWEET.

1136*h* WASH., D. C., *May* 13, '82.

Mess. F. H. Smith & Son to Washington Brick Mch. Co., Dr.

Jan'y	23.	To 5,000 red	@ 8.00,	at 16 & S	$40 00
Apr.	22.	" 400 "	9.00,		3 60
		3,800 par.	10.00 "	"	38 00
					81 60

Paid.

JNO. E. BEALL,
For Company.

O. K.
E. J. SWEET.

1136*i* WASH., D. C., *Apr.* 30, 1882.

Mess. F. H. Smith & Son — G. W. Rearden, 905 7 St. N. W., Dr.

Apr.	8.	To am't of mdse. delivered for		16-St.	house	$4 00
	11.	"	"	"	"	3 00
	17.	"	"	"	"	5 00
	18.	"	"	"	"	3 00
	20.	"	"	"	"	4 00
	24.	"	"	"	"	2 00
						$21 00

Rec'd paym't,
(S'd) GEO. W. REORDEN.

O. K.
E. J. SWEET.

1136*j* $16.00. Rec'd of F. H. Smith & Son the sum of sixteen doll's, being services in full for two week- as watchman houses cor. 16 & S Sts.

Wash., D. C., May 29, 1882.

J. D. HUTTON.

O. K.
E. J. S.

1136*k* WASH., D. C., *Apr.* 1, 1882.

Mess. F. H. Smith & Son to Bernard Bailey, Dr.

Mar. 3.	6 sash *lox*, .50; 6 rail sc's, .25		75
	3 nails, .15; (7) 1 qr. s'd paper, .25		40
	1 G. butts, 1⅛, .35; 1 G. butts, 2, .42		77
7.	1 bolt & sc's, .10; 1 hoox & sta., .10		20
	3 sash *lox*, .30; 1 gro. sc's, ⅜, .15		45
11.	2 butts, T, .42, .84; 2 G. butts, 1⅛, .35, .70	1	54
	2 gro. sc's, ⅜, .12, .24; 2 gr. sc's, ¾, .18, .36		60
14.	3 sash *lox*, .10, .30; 2 buttons, 5		35
17.	5 G. butts, 1⅛, 46c., 2 30; 7 G. butts, 2, sc's, 54c., 3.78	6	08
20.	1½ G. bronzed butts, 1⅛, sc's, .70	1	05
	2 " " 2 .80	1	60
	" Morris sash *lox*	2	00
	1 " " lif-s		25
	2 " shutter bars		70
	2½ G. real bronze, 2.00	4	67
	1⅙ " " sash l'fts, 1.25	1	46
	1⅙ " " *lox*, Morris, 6.75	7	88
	6 gr. " butts, 4 x 4, 2.50	15	
	2 " mort. *lox* & b'ze knobs, 2.20	4	40
	1 set " F. D. "	7	50
23.	5 pr. b'ze butts, 1⅛, sc's, .40; (25) 4 G. butts, 2, .42, 1.68	2	08
25.	4 G. butts, 1⅛, .35, 1.40; 5 gro. sc's, ¾, .17, .85	2	25
	4 gro sc's, ⅜, 14c., .56; spr. bz. butts, 1⅛, sc's, .64	1	20
	4 pr. b'ze butts, 2, sc's, .40; 1 keg nails, 10, 3.50	3	90
29.	2 G. C. & H. hoox, .15, .30; 2⅛ putty, 2 sec., .42, .98	1	28
	2 key- & fittings to *lox*, .20		40
		68	76
	Cr. by ¾ Mor. door knob, 1.05		79
		67	97

1136*l*

Apr. 1.	To balance	$67	97
	" " 12 sh. sand paper, .15; (8) 2⅛ Wall sash cord, .45, .96	1	11
8.	" 1¾ Rus. sash cord, .35, .62; (4) 25 ℔ fin. nails, 10, 1.50	2	12
11.	" 5 ℔ fin. nails, 6, .30; 10 ℔ fin. nails, 8, .60		90
	" sash w'ts, 24 | 32, 16 | 8, 28 | 72, 20 | 72—572, 1.40	8	01
	19⅜ sash cord, Stal, .45, 8.73; 1 qui. sand paper, .25	8	98
14.	1 rim *lox*, .25; 1 door button, 3		28
	1 qu. s'd paper, .25; 15, 75 w'ts, 6½ = 488, 6.84	7	09
15.	5 pr. b'ze brackets, $\frac{8}{10}$, 2.25; 7 pr. brz. brackets, $\frac{9}{11}$, 3.85	6	10

17.	10 lb fin. nail-, 6, .60; (18) 25 ft. hose & couplings, &c., 3.50	4 10
19.	1 qu. s'd paper, .25; (20) 5 pr. b'z'd bracket-, $\frac{8}{10}$, 2.25	2 50
20.	7 pr. b'z'd bracket-, $\frac{9}{11}$, 3.85; (21) 48 w'ts, $8\frac{1}{2} = 408$, 5.62	9 47
21.	$13\frac{1}{4}$ lb Wall sash cord, 5.97; 25 lb ea. fin. nails, 6, 1.50; 10, 1.50	8 97
	1 qu. sand paper, .25; (22) 6 pr. butts, 4 x 4, .90	1 15
22.	1 gro. sc's, $1\frac{1}{4}$ x 14, .44; (24) 6 jap. butts, S. A., 4 x 4, sc's, 3.00	3 44
24.	1 G. *lox*, br. key, porc. knob, 10.80; (25) 5 pr. jap. S. A. butts, 3 x 3, sc's, 2.00	12 80
25.	2 pr. jap. S. A. butts, 4 x 4, sc's, 1.00; 2 cl. *lox*, .40	1 40
	3 bronz- F. S. bolt-, 8, 4.20; 1 bronze F. bolt, 24, 2.75	6 95
	10 pr. jap. S. A. butts, 4 x 4, sc's, 5.00; 52 lb Ital. sash cord, 2.48	7 48
	$1\frac{1}{4}$ G. *lox*, br. key, por. knob, 13.50; weight-, 24 | 42, 44 | 52, 350, 4.90	18 40
	2 pr. jap. S. A. butts, 4 x 4, sc's, 1.00; 6 pr. jap. S. A. butts, 3 x 3, sc's, 2.40	3 40
27.	1 bbl. bolt, sc., .20; 1 pr. hy. st. h'g's, .35	55
	$1\frac{1}{8}$ G. sc's, $1\frac{1}{4}$, .08; 6 buttons on plates, .30	38
	Qu. sand paper, .25; 6 pr. jap. S. A. butts, 3 x 3, sc. 2.40	2 65
	16 tran. pwts., 27; pr. brads, 2, .12	39
	1 hoox & sta., 10; (28) 3 G. Co. H. hoox, brz. sc., .75	85
28.	3 G. R. T. door stops, 1.20; 1 *lox*, .20	1 40
	" porc. shut. knobs	25
		189 09

1136*m*

	To balance	189 09
May 4.	1 porc. door knob, .45; dif. in ex. h'g's, .15	60
5.	2 pr. rattan, .30; 3 pr. brads, .39	69
	8 rd. hd. sc's, .10; 1 key & fittings to *lox*, .15	25
8.	2 pr. rattan	30
		190 93
12.	8 bz. shut. bars	2 80
		193 73
12.	Cr. by mdse. ret'd	7 83
		185 90
	Cr. F. H. Smith & Son and ch'd to ac. Gen. Reynold	25 00
		160 90

By cash, May 17, '82, $160.90.

Rec'd pay'nt,

BERNARD BAILEY.

O. K.

(S'd) E. J. SWEET.

May 17, paid.

1136*n* WASH., D. C., *Apr.* 21, '82.

Mess. F. H. Smith & Son to John Mitchell, Dr.

		Estimate for plumbing four (4) house-, No. 1808, 1812, 1816, & 1814 16th St. N.W., contract price	$651 00
		To plum-ing four servant's w. c., 19.72 ea.	78 88
		Two st. washers, 5.50 each	11 00
		Plumbing and gas fitting 4 houses, # 1800, '2, '4, & '6 16th St.	740 88
		Plumbing 4 houses on S St., contract price	600 00
		2 st. washers, 5.50 each	11 00
		Plumbing work done at # 1822 16 St., furnishing one 25-gal. boiler in kitchen & one pan w. c. in cellar & changing w. c. & bath-tub to the back room, contract price	56 00
		Plumbing done at 1810 16th St. N. W., changing bath & w. c. to back room & putting in one pan w. c. in cellar	36 00
		Fitting up on- 25-gal. boiler, pipes, cocks, &c., in house 1820 16th St.	25 40
		Furnishing gas pipes, fittings, & proving same at 4 houses on S St. N.W.	25 00
Nov.	30.	1606 S, repairing w. c.	1 00
Dec.	6.	1816 16th St. N.W., examining, repairing leak at gas fixture	50
		# 1810 16 St., clearing sewer, plumber & digger labor	4 48
Dec.	3.	1810 16 St., thawing pipes in cellar & w. c.	1 80
	16.	Clearing sewer pipes, plumber & digger labor	4 60
Jan'y	27.	# 1802, '16, '18, '22 16 St. N. W., repairing burst water pipes, one water-back for range, pipe fittings, &c.	5 75
		Labor of plumber & helper	6 75
Feb'y	10.	House on S St. N. W., repairing basin cocks	95
Feb'y	15.	Draining areas & windows, contract price	15 00
		Difference in cost of corner houses, including wash basins, Demerast's w. c., lead-lining boiler, sink, three wash-trays, soil pipes, gas fitting, water pipe, service pipe, &c.	135 75

1136*o*

Apr. 22. Changing location of w. closets in corner house and at house # 1802 16th St., contract price 10 50

$2,422 24

Nov. 25. Cr. by cash received ---------- $2,200 00

May 18---------- 222 24

Rec'd pay'nt,
(S'd) JOHN MITCHELL.

O. K.
E. J. S.

1136*p* WASH., D. C., *May* 10, 1882.

Mass. Mu. Life Ins. Co. to Edward Caverly & Co., Dr.

For house N. W. corner of 16th & S N. W.:

1 Ruby summer set, as per contract---------- $100 00
1 No. 3 Paragon range, " " ---------- 28 00
1 Mayflo'r heat., " " ---------- 42 50

$170 50

Rec'd payment May 23, 1882,
(S'd) EDW. CAVERLY & CO.

O. K.
E. J. S.

1136*q* $8.50. Received of F. H. Smith & Son the sum of eight .50 dolls., being in full balance due for laying sidewalk 16 & S Sts.
Washington, D. C.

his
BEN. x QUALLS.
mark.

Witness:
F. B. S.

O. K.
(S'd) E. J. SWEET.

1136*r* $641.00. Rec'd of F. H. Smith & Son the sum of six hundred forty-one dolls., being for balance said to be due for lumber furnished to houses corner 16 & S Sts. N. W., outside of the lumber furnished said F. H. Smith & Son p'r Gen. Reynolds.
Wash., D. C., May 19, '82.
(S'd) THOS. W. SMITH.

O. K.
(S'd) E. J. SWEET.

1136*s* $15.00. Rec'd of T. H. Smith & Son the sum of fifteen dolls., being balance due for bell-hanging houses cor. 16 & S Sts.
Wash., D. C., May 29, '82.

J. H. KUCKLING.

O. K.
E. J. S.

1136*t* $16.00. Rec'd of F. H. Smith & Son the sum of sixteen dolls., being for services as watchman for 2 weeks, houses cor. 16 & S streets.
Wash., D. C., May 15, '82.

J. D. HUTTON.

O. K.
E. J. SWEET.

1136*u* $11.00. Rec'd of F. H. Smith & Son the sum of eleven doll's, being in full painting, as per contract, house 1601 S St. N. W.
Wash., D. C., May 27, '82.

SAM'L MORTIMER.

O. K.
E. J. SWEET.

1136*v* WASH., *June 3d*, 1882.

(Order from Sam'l Mortimer.)

Mess. F. H. Smith & Son to B. H. Dow & Co., Dr., 1245 7 St. N. W.

May 15.	2 gal. h. o. finish, 1.65	$3	30
	1 qt. dryer		20
20.	3 gal. h. o. finish	4	90
	1 " turp.		60
	1½ " raw oil		98
	3 lb. oak graining color, .20		60
	25 lb. Lewis lead	2	00
	1 pt. dryer		10
	1 lb. whiting		02
	1 " Fr'ch zinc		12
	¼ " glue		10
26.	1 pt. dryer		10
31.	½ gal. turp.		30
		13	32

Rec'd payment,

B. H. DOW & CO.

O. K.
(S'd) E. J. SWEET.

1136*w* WASHINGTON, D. C., *June* 3, 1882.

Mr. E. J. Sweet & Co. to T. Toumey, Dr.

Ap'r 21.	3 marbleized mantles, $14.00 each	42 00	*42 00
" "	3 do. do. 18.00 "	54 00	42 00
" "	2 parlor mantles, 33.00 "	66 00	66 66
" "	1 libury mantle	35 00	33 33
" "	1 marble vestibule	26 00	26 00
May 2.	1 marbleized mantle, dining-room	18 00	
		†241 00	229 00
June 3.	Cash on ac.	100	

Recei'd payment,

T. TOUMEY.

O. K.
E. J. SWEET.

1136*x* $23.75. Rec'd of F. H. Smith & Son the sum of twenty-three $\frac{75}{100}$ dollars, being in full for balance due for plastering 1601 S St. N. W.
Wash., D. C., June 24, '82.

G. H. DU PONT.

O. K.
(S'd) E. J. SWEET.

1136*y* [Endorsed:] F. H. Smith & Son. June 27th, 1882. No. 18.

(Here follows diagram marked p. 1137.)

1138 Copy.

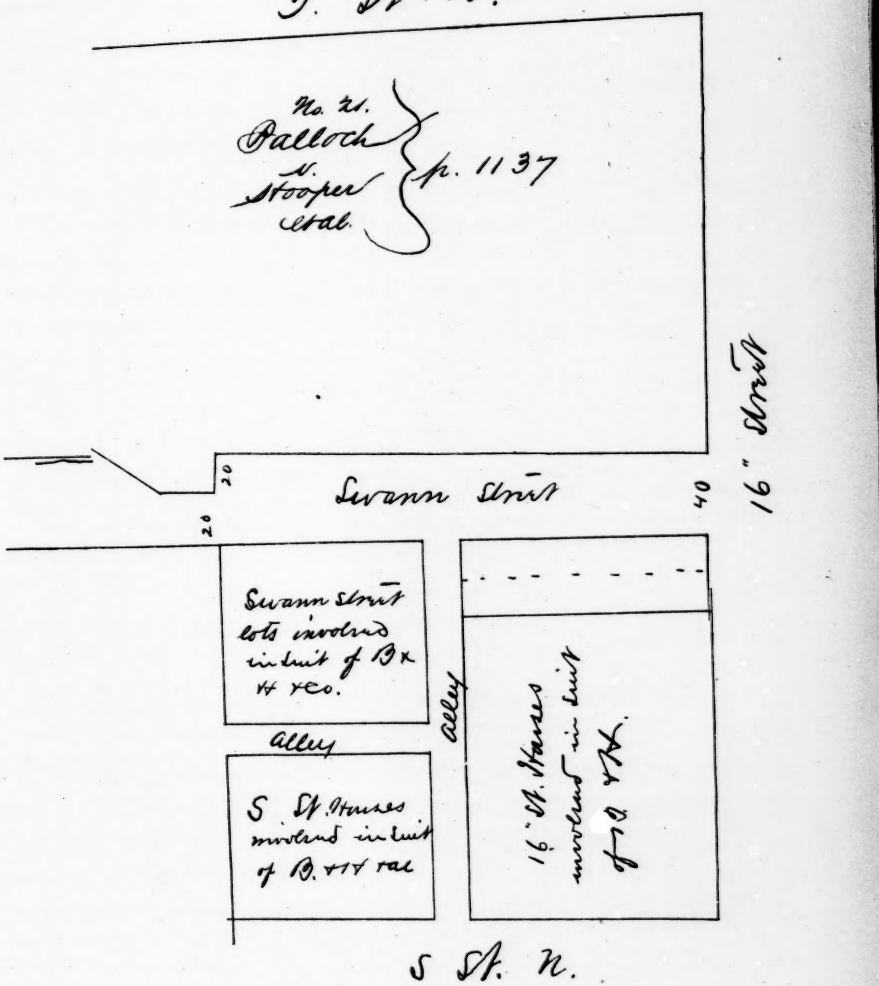
Memorandum of agreement entered into this 15 day of Dec., 1879, by and between Balloch and Joseph G. Hester, both of the city of Washington, D. C.

Whereas the said Balloch has and owns certain real estate in said city, to wit, new houses at the corner of and fronting on 16 and S streets N. W., and is desirous of selling and disposing of the same; and whereas the said Hester, being a real-estate agent, engages and agrees hereby with the said Balloch to negotiate sales thereof at such prices as the said Balloch may fix, for a commission of $150 for each house sold, at a price named and accepted by said Balloch:

It is further agreed that the said Hester is to move into one of the said houses at once (No. — 16 St.) and advertise continually and show the said houses, early and late, to the very best advantage possible for the sale of the said property, and use all proper means and his best efforts to that end. On further consideration of this

* Figures in this column in pencil in copy.
† Erased in copy.

Ex No 1
(auditor)



agreement the said Hester is to have the house occupied by him (rent free) for 4 months from the first day of Jan'y, 1880, the said house to have *a* gas fixtures put in and the house (at least the first floor thereof) carpeted by the said Balloch, and — case the said Hester finds sale of the house occupied by him he is then to move into one of the unsold houses and either remove the said carpets & gas fixtures into the next house, so occupied by him, or require the purchaser to take them, as the said Balloch may deem to his advantage.

Signed and seal- this day above written.

(S'd) ROB'T A. BALLOCH. [SEAL.]
(S'd) JOSEPH G. HESTER. [SEAL]

1139 DEFENDANTS' EX. 1.

J. T. Wormley, real-estate agent, 520 8th street, Le Droit building.

WASHINGTON, D. C., *Aug.* 7, 1879.

L. G. Hine, Esq.:

I hereby agree to pay $1,250 cash and assume $2,250 on sublot 86, in sqr. 241; otherwise the property to be clear and free.

Respectfully, J. T. WORMLEY.

DEF'TS' EXH. 2.

(Auditor.)

Received of R. A. Balloch check of Wm. R. Hooper on 2d National bank for $422.16, four hundred and sixteen $\frac{66}{100}$ dollars being for note of John F. McGregor and to be payment of said note upon payment of said check; otherwise not to be considered as paid.

Sept. 8th, 1879.

W. E. EDMONSTON,
Att'y for Wm. B. & Eliz'b. Hill,
Ex't'rs & Holders of Note.

1140 *Order Extending the Time to File Exceptions to the Auditor's Reports Ten Days. Filed June* 17, 1887.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH *vs.* WM. R. HOOPER *et al.* } # 8381, Eq. Doc. 22.

Upon motion of complainant's solicitor the time for the filing of the exceptions by either party to the auditor's report is hereby extended for ten days.

By the court:

WM. M. MERRICK, *A. J.*

1141 In the Supreme Court, District of Columbia.

ROBERT A. BALLOCH
vs.
WM. R. HOOPER *et al.*
No. 8381, Equity Docket 22.

Filed June 28, 1887.—R. J. Meigs, clerk.

The complainant excepts to the auditor's report filed herein on the 20th day of May, A. D. 1887, and to the following parts and items thereof, to wit:

1st. The complainant excepts to the statement made on the first page of said report, to wit, "Hooper, who was the general agent of the defendant insurance company for this District in its business of insuring lives," because it limits his agency to the business of insuring lives, whereas he was the general agent of the defendant insurance company in relation to all of their business in this District.

2d. The complainant excepts to the following statement found on the second page of said report, to wit: "and one of the conditions of the loans made in square 177 was that all interest due upon
1142 notes of the complainant held by the company at the date of these loans should be deducted from the amount of the loans and retained by the company," because, first, there was no such agreement; second, because there was no interest due.

3d. The complainant excepts to the following statement on the second page of said report, to wit: * * * "and remitted to Hooper for delivery to the complainant drafts for the balance of the loans, payable (with the exception of a draft of $87.65 of the third loan) to the order of the complainant," because a draft for $7,200 was payable to the order of Wm. R. Hooper, the general agent of the defendant insurance company.

4th. The complainant excepts to the following statement on the second page of said report, to wit: "It appears in proof that the drafts above named, when delivered by Hooper to the complainant, were endorsed by the latter and delivered to Hooper to be disbursed by him in payments to the complainant," because said drafts were never delivered to Mr. Balloch, but were retained by defendant insurance company's general agent, W. R. Hooper, never leaving his office, desk, and possession for a single moment.

5th. The complainant excepts to the following statement on the second page of said report, to wit: "It appears that the defendant company was not consulted with reference to the change of title and had no knowledge of it until about eighteen months after the conveyance was executed and recorded," because the property was conveyed to and recorded by the general agent of the defendant insurance company, through whom the loans were made and with whom all transactions pertaining to this property were had and at whose request and demand said deed was made and executed and who had full knowledge about the conveyance and transactions and made all of the arrangements in relation thereto.

6th. The complainant excepts to the following statement on the second page of said report, to wit: "Hooper took possession of the property conveyed to him and proceeded with the construction of the houses, all of which, with one exception, were at the time
1143 in an unfinished condition, but was unable to progress with the work by reason of the want of means," because, first, four houses were entirely completed, to wit, house No. 1816 16th street, the Howard house, and the two Archer houses; and, second, because defendant Hooper, the agent of the defendant insurance company, had about fifteen thousand dollars ($15,000) in his hands with which he could at that time, with proper economy and diligence, complete the improvements.

7th. The complainant excepts to the following statement on the second and third pages of said report, to wit: "At this time (October, 1881) a large amount of taxes and assessments were due * * * there were several other trust encumbrances beside those to secure the company as well as mechanics' liens and judgments," because at this time no mechanics' liens existed and no judgments; the only judgment against the complainant had been settled by other than the defendants in March, 1880, and because all trusts, with the exception of that to Adams, had been previously paid.

8th. The complainant excepts to the following statement on the third page of said report, to wit: "This statement and testimony, however, includes the cost of two other houses," because the statement referred to showing a disbursement of $19,164.63 does not include any money expended on the houses referred to.

9th. The complainant excepts to the following statement on the fourth page of said report, to wit: "The best that can be done in this condition of the proof is to take the cost as given and add a reasonable profit for the owner," because, first, the testimony clearly discloses the value of these improvements; second, to add ten per cent. to the cost would be simply the amount due for superintending the work and afford no profit to the owner; third, because the $19,164.63 does not include the cost of superintending, examining titles, permits to build, &c., and many other things, and only includes the cost of the articles directly used in the buildings.

1144 10th. The complainant excepts to the following statement on the fourth page of said report, to wit: "The order of reference directs in some instances that the value of the improvements be given separately, but it will be readily seen that, as the houses were not in the same condition and separate accounts of cost were not kept as to each, it is not practicable to give the information called for," because the proofs clearly disclose the value of the improvements separately and the actual cost of each house and improvement at the time referred to in the order of reference.

11th. The complainant excepts to the following statements on the fourth page of said report, to wit: "Except by showing what was expended upon them after the transfer to Hooper," because the defendants' testimony does not show what was expended in the completion of said houses as claimed in said statement.

12th. The complainant excepts to the following statement on page

four of said report, to wit: "It will be observed in Schedule 'C' that the amount expended by the defendant Hooper and the defendant company in the completion of the houses after the transfer to Hooper is in excess of the amount estimated by the complainant's witnesses as necessary for that purpose. It appears that changes were subsequently made in the designs of the houses and in the plumbing, location of bath-room, &c., which increased the cost to some extent," because the proof clearly and fully discloses that $8,393.35 was all that was necessary to complete said houses, and that contractors and builders were ready and willing to complete them for that sum; second, because there is no evidence that the $3,965.50 claimed to have been expended by defendant Hooper, or the $20,298.25 claimed to have been expended by the defendant insurance company was ever used or expended in the completion of said houses; third, because there is no evidence that the complainant ever consented to the changes in the construction of said houses, if any, nor is there any testimony showing that said changes
1145 (if any) ever increased the cost of said improvements, nor does the evidence disclose the amount of any such pretended increase in the cost thereof.

13th. The complainant excepts to the following statement on page four of said report, to wit: "The order of reference simply directs me to state the amount of money paid out by the defendant company, and, in my view, the sending of these drafts in the manner above stated and their delivery to the complainant constituted payments within the meaning of the order of reference," because they were not sent as "above stated" and were not delivered to the complainant and never left the possession of the defendant company and their agent, and were endorsed by the complainant while in their possession and retained by them, so far as they were payable to his (Balloch's) order.

14th. The complainant excepts to the first, second, and tenth paragraphs of the fifth page of said report because there was no such agreement or understanding between the parties as that stated therein nor does the proof disclose any such.

15th. The complainant excepts to the statement contained and found on page six of said report because they are erroneous and not found or supported in the proofs, nor do the schedules referred to disclose the state of the accounts between the parties as claimed therein, nor do they disclose how they are made up.

16th. The complainant excepts to the statement on the seventh page of said report relating to the Schedules M and N because said schedules do not disclose the facts and accounts claimed.

17th. The complainant excepts to Schedules "A and B" because the values there given and the method adopted for obtaining them are erroneous and not in harmony with the proofs in the case.

18th. The complainant excepts to the latter part of Schedule "C," relating to claimed expenditure by the defendant com-
1146 pany and Hooper, its agent, because there is no evidence that said moneys were properly expended in the completion of said houses or in their completion in any manner whatever.

19th. The complainant excepts to Schedule "E" because it is not true that the defendant insurance company paid to the complainant the sum of $30,014.81 on account of said loans, as there charged, and because the claimed credits for interest claimed to be due by the complainant, to wit, $581.50, $578.26, $646.42, and $1,412.35, are erroneous and incorrect; also the cash payment on the Archer houses of $800 should be but $400, as they had title to only one house; also the $416.66 should be but $208.33, and the $750 on the Howard house should not be charged in the account, because the defendant accepted the said house back again from the complainant in about seven days after the attempted sale to him; the complainant also excepts to the item of $581.50 because it was not due from the complainant, and to the item of $2,081.27 because said claims for interest were not properly chargeable against the complainant, and the complainant excepts to the item of $2,662.77 claimed by said report to be actually due the defendant insurance company February 25th, 1880, as interest, because no such amount was due, as shown by the evidence.

20th. The complainant excepts to Schedule "F" of said report because, first, the claimed indebtedness of the complainant to the defendant insurance company of $35,200 was represented by notes, upon which he had received only $14,724.73, the balance of money represented by said notes being in the possession of the defendant insurance company or of their general agent, Hooper, and because the $11,250 represented by the plaintiff's five notes were in no way related to the property involved in this suit, but were secured upon other property which the complainant sold and said notes were assumed and paid by other persons; also because the $555.76 represents only a small part of the claimed interest illegally retained from the complainant by the defendant and because Hooper did not receive

1147 the drafts amounting to $29,927.16 from the complainant, but did receive them from the defendant insurance company, and never surrendered or delivered them to the complainant, as in said schedule charged, and because he had disbursed to the complainant up to February 25, 1880, only $14,724.73 instead of $22,099.90, as in said schedule charged, and because the said Hooper had a balance in hand of $15,290.08 instead of $7,827.26, as claimed by said report, and because it is not true that "Hooper subsequently paid off encumbrances and liens on the property existing at this date, and otherwise disbursed, on account of the property, in excess of his receipts therefrom, an amount greater than the balance in his hands," and because the complainant had no title to lot 14, sq. 722, Archer house, attempted to be sold to the complainant, and are not, therefore, entitled to a credit of $2,760, the proposed price thereof, less cash deducted, and because the defendant insurance company are not entitled to a credit of $3,750 for the Howard house, which said house they accepted back some days after the attempted sale, as shown by the evidence.

21st. The complainant excepts to Schedule "G" and all of the valuations there contained because they are not in accord with the evidence in the case.

22d. The complainant excepts to Schedule "H" because the evi-

dence does not show that Hooper expended $3,965.50 in completing said houses, nor that the defendant insurance company expended the sum of $20,298.25 in the completion, and because the $191.80 paid for taxes was for an old tax on the Archer house, where they had no title, that existed prior to the attempted sale to the complainant, and because the $32.78 tax paid was for an old tax on the Howard house existing long prior to the attempted sale to the complainant.

23d. The complainant excepts to Schedule "I" because it does not include the rent from the four houses on 16th street completed in the spring of 1880 and which Mr. Hooper swears were rented, and because there was no authority for the expenditure of $3,887.75 for the claimed maintenance of the property, nor is their any evidence that it was so disbursed.

1148 24th. The complainant excepts to Schedule "L" and the items therein contained.

25th. The complainant excepts to Schedule "M" or to statements therein made because erroneous and not sustained by the evidence in the case.

26th. The complainant exceps to Schedule "N" and the items therein contained or to the most of them because the note of $2,760 was given on the purchase of the Archer house from the defendant company, which had no title, and because the note for $37.50 was on account of the Howard house, which was at that time returned to and accepted by the defendants; because the $1,500 trust on lots 95, 96, and 97, in square 177, was without consideration and was not an indebtedness, nor was there one cent due on account thereof; because the $100 Duncanson judgment was not a lien upon any of the property involved in this suit, and because there was no such indebtedness to the defendant insurance company as $35,200, nor did the complainant owe $2,760 for the Archer house, having no title, and because the item for $3,750 deferred purchase-money was settled by the acceptance by the defendants of the said property, and because the balance of said items claimed to have been paid by the defendants were, so far as settled, paid out of the balance of $35,200 loans remaining in the hands of said defendant, and their statement as recited in said account is a duplicate statement thereof, and because the $1,500 under entry "see report" was without consideration, not due, and has not been paid by either of the defendants, and they are not entitled to a credit therefor, and because the $254.50 was settled long before the transfer of the property to the defendant Hooper, the agent of the defendant company, and because the item of $40, being a lien in favor of one Clayton, has not been paid by the defendants or either of them, because the $100 Duncanson judgment was not a lien upon the property, and has not been paid by either of the defendants, and because the item of $3,643.95 claimed to have been paid by Hooper as interest on the first indebtedness was

1149 never so paid by him, as will be seen by a reference to the accounts filed herein by M. V. B. Edgarly, the vice-president of the defendant insurance company. Said items, having been included in the statement No. 2 connected with the testimony of de-

fendant Hooper, were erroneously admitted by the complainant's solicitor in the examination before the auditor to have been paid by him, but which, upon an examination of the accounts of the defendant insurance company, it will be seen were not so paid and should not have been so admitted or allowed, and because the defendants are not entitled to a credit for the $1,077 claimed to have been paid to their agents, F. H. Smith & Son.

S. S. HENKLE,
H. B. MOULTON,
Sol's for Complainant.

June 28, 1887.

1150 *Offer to Purchase and Motion for Order to Sell Lots No-. 24, 25, 26, 27, 28, and 29, Square 177, at 70c. Per Foot. Filed July 18, 1887.*

In the Supreme Court of the District of Columbia, this 14th Day of July, A. D. 1887.

ROBERT BALLOCH
vs.
WM. R. HOOPER *et al.* } # 8381. Eq. Doc.

Now comes the complainant, by his solicitors, and moves the court for an order directing and requiring the defendants to accept the bid of Wm. M. Clayton, and to sell and convey to him for the price and upon the terms named in his offer filed herewith the property therein described, and to pay the money thus received and the notes and securities thereby obtained into the registry of the court, to be disposed of according to the further order of the court in the premises.

S. S. HENKLE,
H. B. MOULTON,
Sol's for Compl'n't.

1151 WASHINGTON, D. C., *July* 13, 1887.

Messrs. S. S. Henkle and H. B. Moulton, attorneys in equity cause No. 8381.

GENTLEMEN: Desiring to purchase lots numbered 24, 25, 26, 27, 28, and 29, square 177, fronting one hundred and three (103) feet and one (1) inch on Swann street, I hereby offer for them seventy (70) cents a square foot, and will pay one-quarter down and pay six per cent. interest on the deferred purchase-money; notes to be secured upon the property.

I stand willing to make a deposit of $150.00 upon the same, if you wish it.

The above offer is conditioned, of course, upon the title being good in the party or parties conveying to me.

Respectfully,
WM. M. CLAYTON,
1920 15*th Street N. W.*

1152 In the Supreme Court, District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER and THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY. } No. 8381. Equity.

Filed November 18, 1887.—R. J. Meigs, clerk.

This cause, coming on for final hearing on the pleadings and testimony and the report of the auditor and exceptions thereto, was argued by counsel, and upon consideration thereof it is this 18th day of November, A. D. 1887, ordered, adjudged, and decreed as follows:

1153 1st. That the complainant's exceptions to said report be, and the same are hereby, overruled, and that said report, except as modified by the further provisions of this decree, be, and the same is hereby, ratified and confirmed.

2d. That the sum of fifty-two thousand and ninety-seven and $\frac{37}{100}$ dollars ($52,097.37) found by the auditor, per Schedule L, with his report, as due to the defendant The Massachusetts Mutual Life Insurance Company as of the first day of September, 1886, in respect of the transactions referred to in the proceedings herein, is hereby declared and held to be a first and prior lien and encumbrance in favor of the said company as against the claims and demands of all of the other parties to this cause on the following lots or parcels of land and the improvements thereon and appurtenances thereto belonging in the square numbered one hundred and seventy-seven (177), situate and lying in the city of Washington, District of Columbia, to wit, the west five (5) feet and one (1) inch front by the depth thereof of the lot numbered twenty-four (24), of Jones', Adams', and Duvall's subdivision of a part of said square, as recorded in the office of the surveyor for said District, in the book of subdivisions marked J. H. K., at page 345; also the seven (7) lots numbered eighty (80) to eighty-six (86), both inclusive, and the ten (10) other lots numbered eighty-nine (89) to ninety-eight (98), both inclusive, in R. A. Balloch's subdivision of a part of said square, as recorded in the Book of Subdivisions No. 10, at page 54, in the office of said surveyor, being all of the unsold property mentioned and described in the bill of complaint and proceedings in this cause and in the deed of trust from the defendant Hooper to Frank H. Smith, bearing date November 1, 1881, and recorded in the Liber No. 992, at folio 332 *et seq.*, of the land records of said District and secured as such first and prior lien under the provisions of said trust deed, subject, however, to future accounting as to interest accruing to said company an account thereof and as to the receipts and disbursements by it on account of the property involved in this suit subsequent to said first day of September,

1154 1886, and also subject to a credit thereon as between the complainant and the said company of the sum of two thousand and twenty-nine and $\frac{82}{100}$ dollars ($2,029.82) as of the first day of February, 1882, being ten (10) per cent. paid by said company to

said Smith for his services in the matter of the disbursement of the moneys expended by said company for and on account of the construction of the buildings on and the improvements of said property subsequent to the 25th day of February, A. D. 1880, and for superintending such construction and improvement, which said sum of $2,029.82 as against the complainant and as a charge against the said property is disallowed.

3d. That the sum of one thousand five hundred and fifty and $\frac{43}{100}$ dollars ($1,550.43), with interest thereon from the 21st day of December, 1881, which is found and decreed to be due from the complainant to the defendant Hooper on account of the transactions involved in this suit, is hereby declared and held to be a second lien and encumbrance subordinate or second to the lien so as aforesaid declared in favor of said company on all of the unsold property aforesaid.

4th. That the deed of conveyance from the complainant to the defendant Hooper of February 25, 1880, described in the proceedings herein and recorded in the Liber No. 937, at folio 111 *et seq.*, of said land records as between the complainant and said Hooper, is hereby held and declared null and void.

5th. That the complainant do pay to the defendants the costs of this suit, and all other relief, whether to the complainant or to any of the respondents, except as above set forth, is hereby refused and denied.

WM. M. MERRICK, *A. J.*

1155 *Appeal to the General Term.*

In the Supreme Court of the District of Columbia this 23d Day of November, 1887.

Filed Nov. 25, 1887.

ROBERT A. BALLOCH *vs.* WM. R. HOOPER *et al.* } # 8381. Eq. Doc.

Now comes the complainant and appeals to the general term from the judgment and decree of the equity court entered herein on the — day of November, 1887.

H. B. MOULTON,
Of Counsel for Complain't.

1156 *Affidavit of Benj. F. Gilbert. Filed Nov.* 25, 1887.

DISTRICT OF COLUMBIA, *County of Washington,* } *ss:*

Before me, S. A. Terry, a notary public in and for the District aforesaid, personally appeared B. F. Gilbert, who, being duly sworn, deposes and says that he is worth five thousand dollars' worth of real estate in the District of Columbia free of encumbrance.

B. F. GILBERT.

Subscribed and sworn to before me this 25th day of November, 1887.

[SEAL.] S. A. TERRY,
Notary Public.

1157 *Complainant's Undertaking.*

In the Supreme Court of the District of Columbia this 28th Day of November, A. D. 1887.

Filed Nov. 28th, 1887. R. J. Meigs, clerk.

ROBERT A. BALLOCH
vs.
WM. R. HOOPER. } # 8381. Eq. Doc. 22.

Know all men by these presents that we, Robert A. Balloch and Benjamin F. Gilbert, are held and firmly bound unto the defendants in the above-entitled cause in the sum of two hundred dollars current money, to be paid to the said defendants or to their attorney, executors, administrators, or assigns; to which payment, well and truly to be made and done, we bind ourselves, our executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 28th day of November, A. D. 1887.

Whereas the said Robert A. Balloch having appealed to the general term from the decree pronounced herein on the 18th day of November, A. D. 1887: Now, the conditions of the above obligation are such that if the said Robert A. Balloch shall pay and satisfy all costs arising on said appeal if adjudged against him, then the above obligation is to be void and of none effect, but if otherwise to remain in full force and virtue.

ROBERT A. BALLOCH. [SEAL.]
B. F. GILBERT. [SEAL.]

Witnesses to signatures:

—— ——.
—— ——.

Approved:
W. S. COX, *J.*

The security on this bond for costs of appeal is satisfactory to us.

EDWARDS & BARNARD,
Sol's for Defendants.

Nov. 28th, 1887.

1158 *Defendants' Undertaking.*

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH, Complainant,
vs.
WILLIAM R. HOOPER and THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY, Defendants.
No. 8381. Equity.

Bond for costs of appeal. Filed Dec. 5th, 1887.—R. J. Meigs, clerk.

Know all men by these presents that we, William R. Hooper and The Massachusetts Mutual Life Insurance Company, defendants in the above-entitled cause, and Otis F. Presbrey, are held and firmly bound unto Robert A. Balloch, the complainant in the said cause, in the sum of two hundred dollars ($200) current money, to be paid to the said complainant or to his attorney or attorneys, executors, administrators, or assigns; to which payment, well and truly to be made and done, we bind ourselves, our executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 28th day of November, A. D. 1887.

Whereas the said defendants having appealed to the general term of said court from the decree passed by the special term thereof on the 18th day of November, A. D. 1887:

Now, the condition of the above obligation is such that if the said defendants or either of them shall pay and satisfy the costs of said appeal if adjudged against them, then the above obligation is to be void and of no effect, but if otherwise to remain in full force and virtue.

WILLIAM R. HOOPER. [SEAL.]
THE MASSACHUSETTS MUTUAL LIFE INS. CO.
W. V. B. EDGERLY, *President.* [SEAL.]
OTIS F. PRESBREY. [SEAL.]

Approved Dec. 5, '87.

WILLIAM M. MERRICK, *A. J.*

The security on this bond is satisfactory and notice waived.

S. S. HENKLE,
Of Counsel for Pl'ff.

Dec. 3, 1887.

1159 *Notice of Appeal and Surety on Bond.*

A copy of the within notice has this day been served upon us.

EDWARDS & BARNARD,
Att'y- for Defendants.

In the Supreme Court of the District of Columbia, this 23d Day of November, A. D. 1887.

Filed Nov. 28, 1887.

ROBERT A. BALLOCH
vs.
WM. R. HOOPER *et al.* } # 8381, Eq. Doc. —.

To Messrs. Edwards and Barnard, sol. for defendants:

You are hereby notified that we have filed in said cause an appeal to the general term from the judgment and decree of the equity court entered herein on the — day of November, A. D. 1887, and that on Monday, the 28th day of November, A. D. 1887, at 10 o'clock a. m., or as soon thereafter as counsel can be heard, we will offer Benjamin F. Gilbert, residing at Tacoma park, office on F St. bet. 6 & 7th Sts. N. W., Washington city, D. C., as surety on said appeal bond.

H. B. MOULTON,
Of Cou-sel for Complainants.

1160 In the Supreme Court of the District of Columbia, in General Term.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER and THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY. } No. —, Equity Dock. 22.

Opinion of the court announced by Mr. Justice JAMES May 28, 1888:

In the case of Robert Balloch *vs.* William R. Hooper and The Massachusetts Mutual Life Insurance Company the record sets forth a somewhat elaborate statement of fact and several questions of law, all of which were considered and discussed by counsel, but which it is not necessary in the view we have of the case for us to consider.

Briefly stated it appears that Balloch had purchased a tract of land in Washington which was laid off in lots with a view to build a number of houses, and that he applied to the defendant insurance company for a loan through Hooper, who was its agent for that kind of business. He obtained at three different times three loans upon certain conditions, one of which was that a part of the money was to be applied to the extinguishment of existing incumbrances, the main one being the purchase-money due to Bradley Adams. These loans were made by sending the money to Hooper, who retained a part of it for these purposes, and, as it is stated in the answer,
1161 was to advance the rest as the buildings should advance. A certain amount of money on each loan was paid over by Hooper, but, as Balloch avers, not enough after the application of some of the money to these encumbrances to enable him to proceed

rapidly with the building. At a certain period, no matter for what reason, as we hold, Balloch conveyed the whole of that property which he had mortgaged or upon which he had given a deed of trust to secure the loan from the insurance company, and also six other lots which had not been included in the security. He alleges that there was an agreement between Hooper and himself that this was to be in fact a trust. He alleges that Hooper was to take the property, apply the money that had been held back on the loan to the finishing of the houses, sell the houses, and divide the proceeds in certain proportions. That was alleged to be a verbal agreement. It was not only alleged to be a mere oral agreement, but Hooper denies it and the insurance company denies ever having heard of it.

The conveyance to Hooper was by a deed absolutely. Whatever the agreement was, it was manifest, first, that it was in some way as security, because Balloch conveyed to Hooper more than the land included in the trust. That indicates to us that there was a contract and understanding that it was to be some sort of security. Had his purpose been merely to give up the enterprise he would not have given in addition to the property that was included in the deed of trust these six lots. So far, then, as Hooper was concerned we are of opinion that his intention was to take this as security for Balloch's debt. Hooper sets up in his answer that he took this conveyance for the purpose of better securing the payment to the
1162 company, but there is nothing to show that the insurance company knew of that transaction at the time.

The answer of the company says they did not know of it until a little more than seventeen months afterwards; then, these houses having stood unfinished, Hooper being in fact, I suppose, in trouble with the whole affair, Hooper applied to the insurance company to carry on this enterprise of finishing the houses. He undertook, if they would supply him with money, to step into Balloch's shoes in a certain sense, enter into the same situation, and he would finish them. Upon its face that was the character of the transaction between him and the insurance company. The insurance company then agreed to deliver up Balloch's notes, and they did cancel the deeds of trust in the proper manner and undertook to advance and did afterwards advance further moneys for the finishing of these houses, taking Hooper's note so as to secure whatever might be advanced—that is to say, a note for $71,000.

I should state in continuation of the facts that the insurance company made advances to Hooper, and it is alleged that besides the money that was advanced to Balloch it cost some $20,000 to finish these houses. Balloch says that the agreement was that they were to be finished on his account and that this expenditure of $20,000 was absurd, greatly in excess of what the houses should have cost, and that he is entitled to carry out his agreement with Hooper at a lower cost.

Now, on such a transaction what are the rights of the parties? It appears that Hooper did not communicate with the company that he proposed to buy on their account; they knew nothing
1163 about it for seventeen months, and he took the title to

himself. In such * * * * application of the ordinary principles of agency or of trust. When a person buys in his own name, when he does not purport to act for a principal and buys in his own name, the principal cannot afterwards adopt the transaction. If he uses the money of his principal a court of equity would fasten upon the transaction in behalf of the principal a trust by construction of law. But he did not use the money of the principal. He gave his own obligation alone if he gave any. He does not appear to have given any written obligation; but he transacted this business in his own name and upon its face for his own benefit. We do not perceive any way in which the principal could claim to adopt that or in which he should be bound by any terms which Hooper had entered into. It did not purport to be a transaction for the principal, and the principal's means were not engaged or used at that time. We cannot pass upon it, therefore, a trust or regard it as an act of agency which might be ratified afterwards.

It results that the insurance company was a stranger to the contract between Balloch and Hooper. It is not show- even that they were aware of the terms. The only recognition they could give to Balloch's existence was that they released this deed and took Hooper as the debtor, which might well be done, because the land was bound for the whole of that debt. Hooper held it subject to its being swept away from him by the lien. In such a situation he said, "I will become personally liable for it and give a lien also for the same thing;" and they said, "Then we will discharge this lien which we have on your land and by which we can take your land away from
1164 you and we will take your personal obligation."

We do not perceive that there is a legal or equitable connection established with the insurance company so as to show a trust on their part for the benefit of Balloch. If that is the case it is entirely immaterial whether these houses cost an extravagant and even a fraudulent price or not. That does not concern Balloch in a matter which lay between Hooper and the insurance company. Hooper is a principal, and if he borrowed $20,000 for this purpose unnecessarily and unnecessarily expended it or even was guilty of fraud it was a fraud against the insurance company; yet the insurance company does not claim any absolute title; they claim only a lien which they could get, being innocent dealers. They are only to be protected in their lien. Hooper we do not treat as having a true right; he has no right. He cannot own the equity of redemption, for there is clear evidence that he took this as a security and not as an absolute title. So that leaves Balloch with the right to redeem, but he will have to redeem, as the transaction was made between Hooper and the insurance company. We find that, according to the audit, to amount to $52,000. The result, in short, is that we have to affirm this decree. It may be that Balloch has suffered a wrong, but we cannot do anything more than to allow him to receive this property at that rate.

1165 *Decree in General Term Affirming the Decree in Special Term, with Costs. Filed May* 29, 1888.

In the Supreme Court of the District of Columbia.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER *et al.* } No. 8381. Equity.

This cause coming on for hearing in the court in general term on the appeals of the respective parties from the decree of the court in special term, passed on the 18th day of November, 1887, and being heard, argued by *counsel*, submitted, and considered, it is this 29th day of May, 1888, adjudged, ordered, and decreed that the said decree of the court in special term so as aforesaid appealed from be, and the same is hereby in all things affirmed with costs.

For the court:

CHARLES P. JAMES, *J.*

1166 DISTRICT OF COLUMBIA, *To wit:*

To Wm. R. Hooper & Massachusetts Mutual Life Insurance Company:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the supreme court of the District of Columbia, wherein Robert A. Balloch is plaintiff and you are defendant-, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected so that speedy justice be done the parties in that behalf.

Witness E. F. Bingham, chief justice of the said supreme court of the District of Columbia.

Test:

R. J. MEIGS, *Clerk*,
By R. J. MEIGS, JR., *As't.*

See opposite side for service.

1167 Served copy of the within citation on James S. Edwards, attorney for defendants.

Oct. 15, 1888.

A. A. WILSON, *Marshal.*

1168 In the Supreme Court of the District of Columbia, the 15th Day of October, 1888.

ROBERT A. BALLOCH
vs.
WILLIAM R. HOOPER and THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY. } No. —. In Error.

Know all men by these presents that we, Robert A. Balloch and William Mayse, are bound unto the above-named William R. Hooper

and The Massachusetts Mutual Life Insurance Company in the sum of one hundred ($100) dollars, to be paid to the said William R. Hooper and The Massachusetts Mutual Life Insurance Co., *his* executors or administrators; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated this 15th day of October, 1888.

Whereas the above-named Robert A. Balloch has prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above suit by the said supreme court of the District of Columbia:

Now, therefore, the condition of this obligation is that if the above-named Robert A. Balloch shall prosecute his said appeal to effect and answer all damages and costs if he shall fail to make good his plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

ROBERT A. BALLOCH. [SEAL.]
WILLIAM MAYSE. [SEAL.]

Sealed and delivered in presence of—
S. A. TERRY.
GEO. E. TERRY.

Approved 15th October, 1888.

CHARLES P. JAMES, *Justice.*

1169 AUTHENTICATION OF RECORD.

Clerk's Certificate.

CLERK'S OFFICE,
SUPREME COURT OF THE DISTRICT OF COLUMBIA.

I, R. J. Meigs, clerk of the said court, do hereby certify that the writings annexed to this certificate are true copies of originals on file and of record in said office, and that said originals together constitute the record of the proceedings of said court in this cause.

Witness my hand and the seal of said court this 11 day of October, 1888.

[Seal Supreme Court of the District of Columbia.]

R. J. MEIGS, *Clerk,*
By R. J. MEIGS, JR.,
Assistant Clerk.

Justice's Certificate.

I, E. F. Bingham, chief justice of said court, do certify the foregoing attestation by R. J. Meigs, clerk of the said court, to be in due form.

Witness my hand and seal this 11th day of October, 1888.

E. F. BINGHAM, [SEAL.]
Chief Justice.

Clerk's Certificate to Justice's Official Character.

I, R. J. Meigs, clerk of said court, hereby certify that E. F. Bingham, whose genuine signature is subscribed to the foregoing certificate, was, at the time of signing and attesting the same, chief justice of said court, duly commissioned and qualified.

Witness my hand and the seal of said court this 11th day of October, 1888.

[Seal Supreme Court of the District of Columbia.]

R. J. MEIGS, *Clerk*,
By R. J. MEIGS, JR.,
Assistant Clerk.

[Endorsed:] Authentication of record.

Endorsed on cover: Case No. 13,336. District of Columbia supreme court. No. 21. Robert A. Balloch, appellant, *vs.* William R. Hooper and The Massachusetts Mutual Life Insurance Company. Filed October 15, 1888.

Supreme Court of the United States.

OCTOBER TERM, 1892.

No. 21.

ROBERT A. BALLOCH, *Appellant*,

vs.

WILLIAM R. HOOPER AND THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY.

STIPULATION.

It is hereby stipulated that a copy of one of the trust deeds from Robert A. Balloch to William R. Hooper, trustee, to secure loans to Balloch by the Massachusetts Mutual Life Insurance Company may be printed as a supplemental record, and that said deed may be treated in all respects like in form and substance to all the others, save as to dates and amounts, and it is further stipulated that a copy of the deed of trust of Hooper to Frank H. Smith, to secure the said company in the sum of $71,000, may be also printed in such supplemental record. The said deeds of trust were all offered in evidence, but by inadvertance was omitted from the record.

S. S. HENKLE,
Counsel for Appellant,
EDWARDS & BARNARD,
Counsel for Appellees.

G. C. S. Liber 937, *folio* 99.

ROBERT A. BALLOCH
To
WILLIAM R. HOOPER.
} Recorded February 27, 1880. 10:20 A. M.
Trust

THIS INDENTURE, made this seventeenth day of February, in the year of our Lord, one thousand, eight hundred and eighty, between Robert A. Balloch, of Washington, in the District of Columbia, unmarried, of the first part, and William R. Hooper, of the same Washington, trustee, of the second part.

WHEREAS, the said Robert A. Balloch is justly indebted unto the Massachusetts Mutual Life Insurance Company, of Springfield, Mass., in the full sum of two thousand dollars, for which amount he has given his promissory note of this date, to the said Massachusetts Mutual Life Insurance Company or their order, at their office in Springfield, Mass., one year after date with interest semi-annually on the first day of May and November in each year, at the rate of eight per cent. per annum until paid, and being desirous to secure the punctual payment of said note when and as the same shall become due and payable with all interest and costs due and accruing thereon, as well as any renewals or extensions, therefore execute these presents.

NOW THEREFORE, this indenture witnesseth, that the said party of the first part, for and in consideration of the premises aforesaid, and further the sum of one dollar, in lawful money of the United States, paid to him by said party of the second part, has granted, bargained, sold, aliened, enfeoffed, released and conveyed, and does by these presents, grant, bargain, sell,

alien, enfeoff, release and convey unto the said party of the second part, his heirs and assigns the following described real estate, situate in the City of Washington, District of Columbia, to wit:

Lot eighty-nine (89) in R. A. Balloch's subdivision of part of square one hundred and seventy-seven (177), as per plat of said subdivision recorded in book 10, page 54. One of the records of the office of the surveyor of said District, together with all the easements, hereditaments and appurtenances to the same belonging or in anywise appertaining, and all the estate, right, title, interest, and claims whatsoever, whether in law or in equity of the said party of the first part, of, in, to or out of the said piece or parcel of land and premises. To Have and To Hold the said piece or parcel of land and premises with the appurtenances unto and to the use of said parties of the the second part, the survivor of them or his heirs and assigns.

In and upon the trusts nevertheless hereinafter mentioned and declared that is, in trust to permit the said R. A. Balloch, his heirs or assigns, to use and occupy the said described premises, and the rents, issues and profits thereof to take, have and apply to, and for his and their sole use and benefit until default be made in the payment of said note, or any instalment of interest due thereon, or any proper cost, charge, commission, half-commission or expense in and about the same.

And upon the full payment of all of said note and any extension or renewals thereof, and the interest thereon, and all other proper costs, charges, commissions, half-commissions and expenses incurred by means of these trusts, at any time before the sale hereinafter provided for, to release and reconvey the

said described premises unto the said Balloch, his heirs or assigns at his or their cost.

AND UPON this further trust that upon default being made in the payment of said promissory note at maturity, or any instalment of interest due thereon, or any proper cost, charge, commission, half-commission, insurance or other proper expense in and about the same then and at any time thereafter to sell the said piece or parcel of land and premises, or any portion thereof at public auction in front of the premises, after at least fifteen days notice of the time, place and terms of sale by advertisement in some one or more of the newspapers printed and published in the said City of Washington upon such terms and conditions as the said trustees, or the survivor of them, may deem most advantageous to the parties interested, and with further power to postpone the sale from time to time in their or his discretion, and to resell on default of the purchaser.

AND UPON this further trust upon full compliance with the terms of sale to convey the property sold in fee simple to the purchaser or purchasers thereof, at his, her or their cost and expense, and without any liability to the said holder or holders, or to the purchaser, to see to the application of the purchase money, and out of the proceeds of said sale or sales.

First. To pay all proper costs, charges and expenses, and to retain as compensation a commission of five per cent, on the amount of said sale or sales.

Secondly. To apply said purchase money, to the payment of whatever may then remain unpaid of the said note, and the interest thereon, to the time of said sale, whether the same shall be due or not, and *lastly*,

to pay the remainder if any, to said Balloch, his heirs or assigns. And the said Balloch, doth hereby covenant with the said parties of the second part his heirs and assigns, that all taxes upon the said land shall be duly paid and that the building on said parcel of land shall be kept insured by the said party of the first part during the continuance of this trust in some good and responsible fire insurance company, or companies to the satisfaction of the parties of the second part, in the sum of two thousand dollars, and the policy or policies of insurance, be assigned to the said parties of the second part, as trustees under these presents, and further that in case the said Balloch, his heirs or assigns shall fail to pay taxes, or to keep said property so insured and assigned, then the taxes may be paid and the property be insured for the amount aforesaid, by the said parties of the second part, the survivor of them his or their heirs and assigns, and the amount of premium and taxes paid shall be considered a part of the expense of said debt secured hereby, in default of payment of which, the said parties of the second part, the survivor of them, his heirs and assigns, shall have power to sell said property hereby conveyed as aforesaid, and shall dispose of the proceeds of sale, as herein before provided, *and it is further agreed*, that if the property shall be advertised for sale under the provisions of the deed, and not sold, then the said trustees shall be entitled to one-half the commission above provided, to be computed on the amount of the debt hereby secured.

In Testimony whereof, the said party of the first part, has hereunto set his hand and seal, on the day and year first hereinbefore written.

ROBT. A. BALLOCH. [SEAL.]

Signed, sealed and delivered in the presence of

G. W. BALLOCH.

DISTRICT OF COLUMBIA, *Washington County.* } *ss:*

I, G. W. Balloch, a Notary Public, in and for the District and County aforesaid, do hereby certify that Robert A. Balloch, party to a certain deed, bearing date on the seventeenth day of February, A. D. 1880, and here to annexed, personally appeared before me, in said County, and the said Robert A. Balloch being personally well known to me to be the person who executed the said deed, and acknowledged the same, to be his act and deed. Given under my hand and notarial seal, this twenty-sixth day of February, A. D. 1880.

G. W. BALLOCH,
Notary Public. (NOTARIAL SEAL.) [SEAL.]

[ENDORSEMENT.]

Fee $2.50.

This is to certify that the within is a true and verified copy of an instrument as recorded in Liber, No. 937, Folio 99 *et seq.*, one of the Land Records of the District of Columbia.

OFFICE OF THE RECORDER OF DEEDS,
WASHINGTON, D. C.

October 4th, 1892.
GEO. F. SCHAYER,
Dep. Recorder.

[SEAL.]

G. C. S. Liber 992, *folio* 332.

WILLIAM R. HOOPER
To
FRANK H. SMITH,
Trustee.

Recorded January 27, A. D. 1882, 3:15 P. M.

Trust.

THIS INDENTURE, made this first day of November in the year of our Lord, one thousand, eight hundred and eighty-one, by and between William R. Hooper, of the City and County of Washington, in the District of Columbia, of the first part, and Frank H. Smith, of the said Washington, trustee, of the second part.

WHEREAS, the said William R. Hooper is justly indebted unto the Massachusetts Mutual Life Insurance Company in the full sum of seventy-one thousand dollars, for which amount he has given his note of even date herewith with semi-annual interest at the rate of six per cent. per annum, and being desirous to secure the punctual payment of said note when and as the same shall become due and payable with all interest and costs due and accruing thereon as well as any renewals or extensions, therefore, execute these presents. NOW, THEREFORE, this indenture witnesseth, that the said party of the first part, for and in consideration of the premises aforesaid, and further, the sum of one dollar in lawful money of the United States, paid to him by said party of the second part has granted, bargained, sold, aliened, enfeoffed, released and conveyed, and does by these presents, grant, bargain, sell, alien, enfeoff, release and convey unto the said party of the second part, his heirs and assigns the following described real estate situate in the City of Washington, District of Columbia, to wit: Lots 18, 19, 20, 21, 22, 23 and the western five feet one inch front, by the depth of lot 24, of Jones, Adams and Duvall's subdivision of part of square one hundred and seventy-seven, (177) as per plat recorded in book J. H. Ketchum, page 345, of the Records of the Surveyor's Office of District of Columbia, and also lots 80, 81, 82, 83, 84, 85, 86, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 of R. A. Balloch's subdivision of part of said square, as

per plat thereof, recorded in book No. 10, page 54, of said record of surveys, together with that certain piece or parcel of ground situate and being in said Washington and known and described as lot lettered H in W. W. Corcoran's subdivision of lots one (1) and thirty-seven (37) to fifty, both inclusive of a former subdivision of square 446, said lot fronting eighteen feet nine inches on Sixth Street, N. W., and running back 120 feet to an alley, together with that certain piece or parcel of ground in said Washington, known and described as lot fourteen (14) according to S. A. Terry's subdivision of original lot one (1) in square seven hundered and twenty-two, (722) as said subdivision is recorded in the Surveyor's Office of said District in book R. L. Hoxie, page 258, together with all the easements, hereditaments and appurtenances to the same belonging or in anywise appertaining, and all the estate, right, title, interest and claims whatsoever, whether in law or in equity of the said party of the first part, of, in, to or out of the said piece or parcel of land and premises. To Have and to Hold the said pieces or parcels of land and premises, with the appurtenances unto and to the use of the said parties of the second part, the survivor of them, or his heirs and assigns. In and upon the trusts nevertheless hereinafter mentioned and declared, that is, in trust to permit the said William R. Hooper, his heirs or assigns to use and occupy the said described premises and the rents, issues and profits thereof, to take, have and apply to and for his and their sole use and benefit, until default be made in the payment of said note or any instalment of interest due thereon or any proper cost, charge, commission, half-commission or expense in and about the same.

And upon the full payment of all of said note and any extension or renewals thereof, and the interest

thereon, and all other proper costs, charges, commissions, half-commissions and expenses incurred by means of these trusts, at any time before the sale hereinafter provided for, to release and reconvey the said described premises unto the said Hooper, his heirs or assigns, at his or their cost. And upon this further trust, that upon default being made in the payment of said promissory note at maturity, or any instalment of interest due thereon, or any proper cost, charge, commission, half-commission, insurance or other proper expenses in and about the same, then and at any time thereafter, to sell the said piece or parcel of land and premises or any portion thereof, at public auction, in front of the premises, after at least ten days notice of the time, place and terms of sale, by advertisement in some one or more of the newspapers printed and published in the said City of Washington, upon such terms and conditions as the said trustee may deem most advantageous to the parties interested; and with further power to postpone the sale from time to time in his discretion, and to resell on defult of the purchaser. And upon this further trust, upon full compliance with the terms of sale to convey the property sold in fee simple to the purchaser or purchasers thereof, at his, her or their cost and expense, and without any liability to the said holder or holders, or to the purchaser, to see to the application of the purchase money; and out of the proceeds of said sale or sales, first to pay all proper costs, charges and expenses and to retain as compensation, a commission of three per cent on the amount of said sale or sales; secondly, to apply said purchase money to the payment of whatever may then remain unpaid of the said note and the interest thereon, to the time of said sale, whether the same shall be due or not, and lastly, to pay the remainder, if any,

to said William R. Hooper, his heirs or assigns. And the said Hooper does hereby covenant with the said party of the second part, his heirs and assigns, that all taxes upon the said land shall be duly paid, and that the buildings on said parcels of land shall be kept insured by the said party of the first part during the continuance of this trust in some good and responsible fire insurance company or companies to the satisfaction of the parties of the second part, and the policy or policies of insurance be assigned to the said parties of the second part, as trustee under these presents, and further, that in case the said Hooper, his heirs or assigns shall fail to pay taxes or to keep said property so insured and assigned, then the taxes may be paid and the property be insured by the said party of the second part, his heirs and assigns, and the amount of premium and taxes paid shall be considered a part of the expense of said debt secured hereby in default of payment of which the said party of the second part, his heirs and assigns shall have power to sell said property hereby conveyed as aforesaid, and shall dispose of the proceeds of sale as hereinbefore provided. And it is further agreed that if the property shall be advertised for sale under the provisions of the deed and not sold, then the said trustee shall be entitled to one-half the commission above provided, to be computed on the amount ef the debt hereby secured.

In testimony whereof, the said party of the first part has hereunto set his hand and seal on the day and year first hereinbefore written.

WILLIAM R. HOOPER, [SEAL.]
FRANCES N. HOOPER. [SEAL.]

Signed, sealed and delivered in the presence of
G. W. BALLOCH.

DISTRICT OF COLUMBIA. } *To wit:*

I. G. W. Balloch, a notary public in and for the District aforesaid, do hereby certify that William R. Hooper and Frances N. Hooper, his wife, parties to a certain deed, bearing date on the first day of November, A. D. 1881, and hereunto annexed, personally appeared before me in the District aforesaid, the said William R. Hooper and Frances N. Hooper, being personally well-known to me to be the persons who executed the said deed and acknowledged the same to be their act and deed, and the said Frances N. Hooper being by me examined privily and apart from her husband and having the deed aforesaid fully explained to her, acknowledged the same to be her act and deed and declared that she had willingly signed, sealed and delivered the same and that she wished not to retract it.

Given under my hand and notarial seal, this sixth day of January, A. D. 1882.

G. W. BALLOCH, [NOTARIAL SEAL.]
Notary Public. [SEAL.]

[ENDORSEMENT.]

Fee $2.50.

This is to certify that the within is a true and verified copy of an instrument as recorded in Liber, No. 992, Folio 382 *et seq.*, one of the Land Records of the District of Columbia.

OFFICE OF THE RECORDER OF DEEDS,
WASHINGTON, D. C.

October 4, 1892.
GEO. F. SCHAYER,
Dep. Recorder.

[SEAL]

Office Supreme Court U. S.
FILED.
OCT 15 1892
JAMES H. McKENNEY,
CLERK.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1892.

No. 21.

ROBERT A. BALLOCH, *Appellant*,

vs.

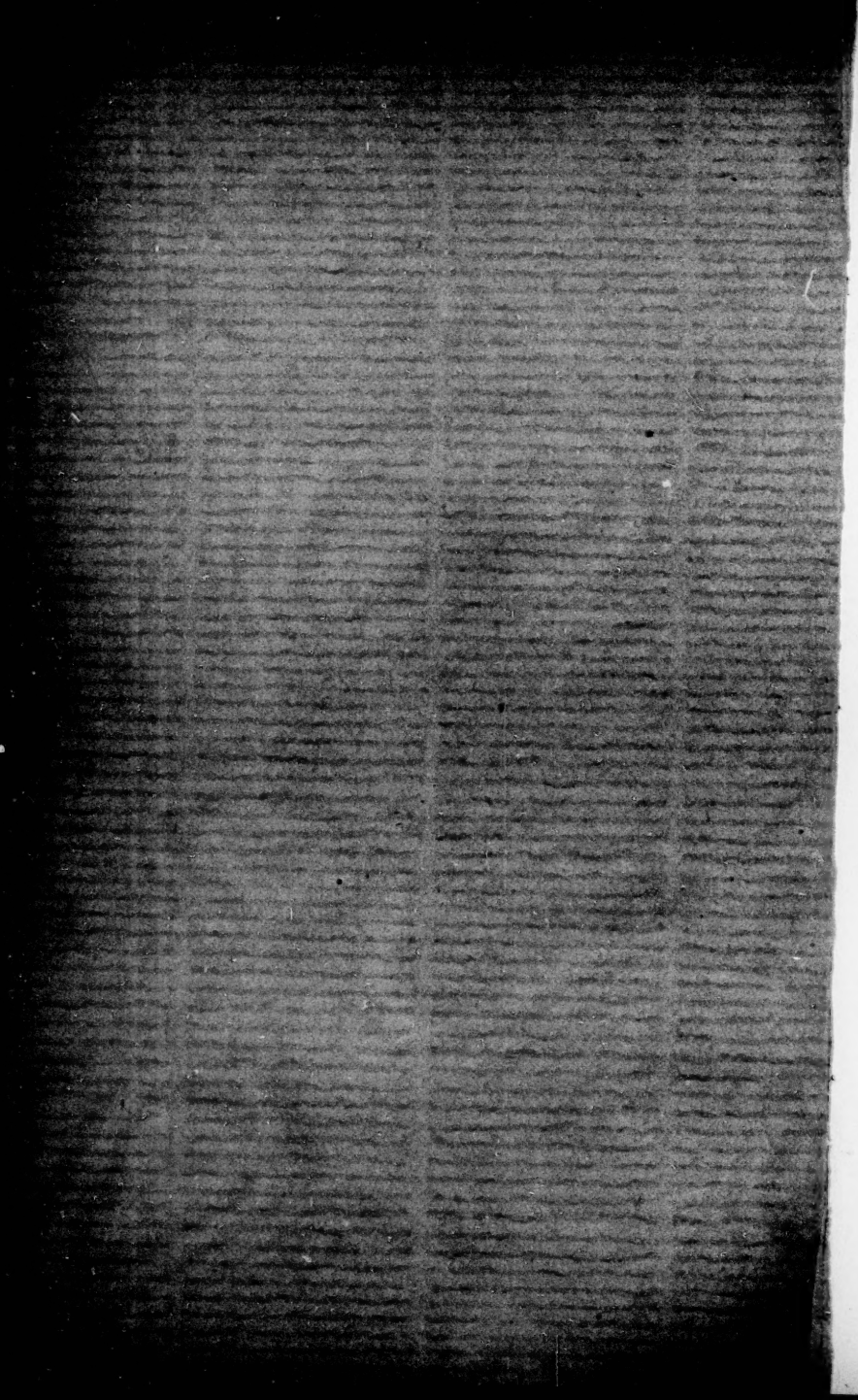
WILLIAM R. HOOPER AND THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY, *Appellees*.

Appeal from the Supreme Court of the District of Columbia.

BRIEF OF S. S. HENKLE,

Counsel for Appellant.

MILANS, LAW PRINTER, 519 7TH STREET, N. W. WASHINGTON, D. C.



Supreme Court of the United States.

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vs.

WILLIAM R. HOOPER AND THE MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY, *Appellees*.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

BRIEF OF S. S. HENKLE, COUNSEL FOR APPELLANT.

STATEMENT OF THE CASE.

The appellant who was the complainant below, filed his Bill in Equity in the Supreme Court of the District of Columbia against the appellees here, who were the defendants below, charging that on the 4th of June, 1879, he was engaged in building a row of fourteen houses on 16th Street, N. W., and a row of six houses on S Street, in Washington City, and being in want of money to carry on his work applied to the appellees for a loan of $16,000. That appellees made the loan, taking his promissory notes secured by deeds of trust to secure the same. The loan was

divided into eight notes of $2,000 each, and they were secured respectively upon eight different lots, numbered from 92 to 99 inclusive in Balloch's subdivision of square No. 177.

That by the agreement one-half of the loan was to be paid over to Balloch when the notes and deeds of trust were delivered to the defendants, and the defendants were to pay off a prior deed of trust upon the property to Mr. J. Bradley Adams, and the remainder was to be paid over to the complainant as he might need it in the prosecution of his work. The defendant Hooper was the agent of the defendant company and was the trustee in all the deeds of trust.

The bill then charges that the defendants, notwithstanding they got the complainant's notes and deeds of trust, did not pay over to him at the time agreed upon the one-half of the said $16,000, that they did not pay the claim of Adams, and did not pay over to complainant the remainder of said loan, but fraudulently withheld said money or a great portion of it, thereby seriously injuring and embarrassing the complainant and rendering it impossible for him to complete his improvements.

That subsequently, on the 11th of October, 1879, he made a second loan from the defendants for $10,200, which was secured by deeds of trust upon lots 18 to 23, both inclusive, in said square 177, in which said deeds of trust the defendant Hooper, who was the agent of the company, was named as trustee; that the payment of the money to the complainant was to be made in the same way as by the agreement as to the payment of the first loan.

The complainant then charges that the defendants failed to pay over the first half of the money or to settle the claim of Adams or to pay over to complainant the remainder of the loan, as he needed it in

the prosecution of his work, but fraudulently and corruptly withheld a great portion of the money, thereby seriously hindering and embarrassing the complainant in the prosecution of his work and rendering it impossible to complete it.

That afterwards, on the 17th day of February, 1880, he made a third loan from the defendants for $9,000, and gave his notes and deeds of trust upon lots numbered 89, 90, 91 and 100, in the same subdivision and square. Hooper, the agent of the company, was also the trustee in these deeds of trust.

The loan was made upon the same agreement as to paying over the money to the complainant as the two preceding. The bill charges the same delinquency as to payment of the money as upon the two former loans, and the same embarrassment to complainant's business in consequence.

The bill charges that the defendants paid in all upon said three loans to him and upon his account only $14,725,15, a sum greatly inadequate to the requirements of his improvements; that on the 25th of February, 1880, the defendants having in their possession $20,474.85 belonging to complainant, which they utterly refused to pay to him, notwithstanding their agreement, and notwithstanding they knew his needs and the embarrassment resulting from withholding the money. That while complainant's embarrassment was well known to the defendants on account of their failure to pay over to him the money, the defendants proposed to him that if he would convey all the property covered by the trusts aforesaid, and also six lots in the same square numbered from 80 to 86, inclusive, to their agent, William R. Hooper, who was the trustee in all the deeds of trust, they would immediately finish all the houses out of the funds remaining in their hands belonging to the complainant and sell

them for the highest and best price attainable, and after reimbursing themselves for the loans divide the remainder, giving to the complainant three-fourths and retaining one-fourth.

That by reason of his embarrassed condition, the result of the corrupt and fraudulent conduct of the defendants, he was compelled to accept the proposition, and accordingly on February 25, 1880, he made to the defendant Hooper, who was then the trustee in all the deeds of trust, and also the agent of the defendant company, a deed for all the property referred to "upon the terms and conditions and for the purposes hereinbefore stated, and for no other."

The defendants did not proceed immediately to complete the houses according to their agreement, but allowed them to stand for about two years, but they did finally and before the commencement of this suit finish the houses.

The bill then charges that most, if not all the houses have been sold, that the defendants have failed and refused to give to complainant any statement or account whatever.

From the best Information complainant can get there is or ought to be about $40,000 belonging to him in the hands of the defendants.

That the defendants wilfully, corruptly and fraudulently and in violation of their agreement now seek to conceal and cover up their sales and transactions in relation to said property, and to make it difficult, if not impossible for the complainant to ascertain the amount to which he is entitled.

The bill then charges a corrupt and unlawful conspiracy to cheat him out of his property. The bill prays for an accounting, etc.

The answer of the defendant Insurance Company

admits the several loans, setting them out with more detail than the bill.

Denies all fraudulent conduct imputed to it in withholding the money or in any way embarrassing the complainant.

It avers that all moneys which it agreed to loan complainant were paid to him by draft or retained by his express agreement, and that it did not in any way cripple or embarrass the complainant in his business.

Denies that it ever proposed to complainant to have the property conveyed to Hooper, and denies that it had any knowledge of the conveyance until a long time after it was done.

Denies that it ever agreed to finish the houses or turn over 75 per cent. of the profits, etc.

It had no knowledge of the conveyance until about October 1, 1881.

Denies that it ever agreed with complainant to complete the houses, but admits that when it ascertained the condition of the property and that Balloch had conveyed it to Hooper it consented to and did advance to Hooper large sums of money for the completion of the houses and took his note for $71,000 secured by deed of trust upon all the property covered by Hooper's deed.

The houses have all been completed and some of them have been sold and some remain unsold.

Denies that there is any money in its hands belonging to complainant, and that if the houses were sold at present market value, they would not more than be sufficient to pay defendants' debt secured upon them.

Denies all corruption, fraud or concealment, and denies that there is anything due complainant from it.

Denies conspiring with Hooper to cheat or defraud complainant out of any interest in said property, "*and*

it denies that he has had any interest therein since the conveyance voluntarily made by him as this defendant is informed on or about the 25th day of February, 1880..'

Files an account with Balloch, marked Ex. No. 1.

And prays to be hence dismissed, etc.

The answer of defendant Hooper admits the loans, that the negotiations and business were alone with him, makes some inconsequential insinuation that Terry, who was Balloch's clerk, exhibited a false plat of the lots when the first loan was made with the imputed object of deceiving the company as to the state of advancement of the houses upon the lots really conveyed.

Denies that he in any manner violated the agreement with Balloch as to the manner in which the money was to be paid; denies withholding money or embarrassing complainant.

That shortly after the last loan was made it became evident to this defendant that the houses were not being completed as rapidly or as thoroughly as they should be, and that the reason was there were too many obligations which had to be paid out of the money, not leaving sufficient to be applied to the buildings; and shortly after, to wit, on the 25th of February, 1880, Balloch of his own volition voluntarily transferred and conveyed to this defendant all the property, including the Swan street lots not included in the trusts, "*which property was taken by this defendant for the purpose of better securing the company in the ultimate realization of and collection of the moneys so as aforesaid loaned to complainant.*"

Denies all fraudulent or corrupt conduct.

Denies that complainant had only received $14,725.15 out of the loans, and that there was at that date re-

maining in defendant's hands $20,474.85 belonging to complainant.

Denies that he proposed to complainant to convey the property to him, but says the proposition came from complainant.

Denies that there was any agreement for the completion or sale of the houses or a division of the proceeds; but, on the contrary, the conveyance was absolute and wholly voluntary on complainant's part, without the promise of any consideration whatever on defendant's part.

Denies that the conveyance was made on account of any wrongful conduct on his part in withholding money.

Admits that he did not proceed to finish the houses immediately for the reason that after paying the encumbrances and claims there was not sufficient money in his hands to complete the improvements, and he had to wait until he could make arrangements to procure more money, hoping in the meantime to make sales of a portion of the lots to complete the buildings. Admits that the buildings are now finished.

Denies that most of the houses were sold.

Denies that he refused to give complainant any information about the business and avers that complainant has no right to demand any account of him.

Denies that he has acted wilfully, corruptly, or fraudlently or that he has attempted to conceal sales of the property.

Denies that he has conspired with the company to cheat or defraud complainant out of any interest which he ought to have in the property, denies that he has any interest. Says that the amount of the encumbrance together with what has been expended in completing the buildings amounts to about $73,000.00 or

$9,000.00 or $10,000.00 more than the property is worth at present prices on a fair valuation thereof.

Says he is willing to account before the auditor if he shall be decreed to do so but he says that the complainant having voluntarily conveyed the property to the defendant without any reservation whatever and without any trusts connected therewith by said deed under seal, recorded in liber 937, folio 111, hereby referred to as part hereof, he submits whether he should render any further account and he asks the same benefits under his answer as he might have had by plea for said cause. And he prays to be hence dismissed.

Replications were filed to the answers and testimony on both sides taken.

The case came on for hearing before Mr. Justice Hagner, holding the Special Term in Equity, April 21, 1885.

After hearing the testimony the court made the decree found on pp. 274, 275, Rec.

The court decreed that the complainant was entitled to an accounting from the defendants concerning the several matters set forth in the bill, and referred the case to the auditor to examine and report upon the several matters referred, with authority to take additional testimony and report his findings to the court.

A large amount of testimony was taken before the auditor and he filed his report on the 20th of May, 1887.

To the report the complainant filed 26 exceptions on the 28th day of June, 1887, (see Rec., p. 648 *et seq.*)

On the 18th of November, 1887, the case came on for a hearing before Mr. Justice Merrick, holding the Special Equity Term.

After argument, the complainants' exceptions were all overruled and the report except as modified by the provisions of the decree was ratified and confirmed.

The sum of $52,097.37 found to be due the defendant company by the auditor in schedule L [That is in the account between Hooper and the company,] was decreed to be a first and prior lien and incumbrance in favor of the company against the claims and demands of all other parties to this cause on all the property then remaining unsold of the property conveyed in the trust deed of Hooper to Smith, bearing date November 1, 1881, subject, however, to future accounting as to interest accruing and as to receipts and disbursements on account of the property and also subject to a credit thereon as between the complainant and the defendant company of $2,029.82, as of the 1st day of February, 1882, being ten per cent. paid by the company to Smith for his services in disbursing the moneys expended by the defendant company on account of the buildings which said sum as against the complainant and the property is disallowed.

That the sum of $1,550.43 found due Hooper by the auditor is declared to be a second lien subordinate to that of company.

That the deed of conveyance of February 25, 1880, of Balloch to Hooper is declared and held to be null and void, and lastly, that Balloch pay the costs and all other relief to either party is refused and denied.

From this decree both parties appealed to the General Term.

The decree was affirmed by the General Term, May 29th, 1888, (see Rec., p. 661.) From this decree the complainant duly appeal to this court.

Assignment of Errors.

The court erred in overruling the complainant's exceptions to the auditor's report, and in ratifying and confirming the same.

The court erred in decreeing that the sum of $52,097.37 found by the auditor in schedule "L," of his report, should be held to be a first lien upon all the property remaining unsold, which was embraced in the first deed of trust from Hooper to Smith, bearing date Nov. 1, 1881, subject to a credit of $2,029.82.

The court erred in decreeing that Hooper should have a lien for $1,550.43 with interest from Dec. 21, 1881, subordinate to the lien of the company.

The court erred in decreeing that complainant pay the costs.

The Facts Shown by the Record.

On the 4th of June, 1879, Robert A. Balloch, the appellant, was the owner of 26 lots in square No. 177 in Washington City. These lots lay in the southeast corner of said square, which was bounded on the east by 16th street N. W., and on the south by S St., 14 of these lots fronted on 16th St. and 6 fronted on S St. He also owned 6 other lots in said square, fronting upon Swan St. not then open to the public.

He had then recently purchased the property from Adams for the price of $14,200.00. He bought the ground for the purpose of building houses upon it, and Adams had sold, requiring but a small payment in hand, and had taken a blanket deed of trust upon the property to secure $14,000.00. Of course Adams supposed his security would be enhanced by the buildings to be put upon it. Balloch had before been engaged in building houses to sell. He at once began building 20 houses, 14 on 16th St. lots, and 6 on the S St. lots.

The 16th St. houses were to be 3-story, pressed brick front houses with cellars. The S St. houses were to be 2-story and basements.

He had gotten his buildings well under way. Some of the houses had the roofs on, and others were not much advanced beyond the cellars, when needing money to go on with his enterprise, he applied to Mr. Hooper one of the original defendants in this case, who was the general agent in this city of the Massachusetts Mutual Life Insurance Company, and from whom he had previously had loans in similar building enterprises, for a loan of $16,000.00, to be divided into 8 notes of $2,000.00 each; each note to be secured upon one of the 16th St. lots by deed of trust.

Mr. Hooper forwarded his application for the loan to the company. The company directed its appraiser Mr. Sturtevant of this city to examine the property to determine whether it would be good security for the loan. Mr. Sturtevant reported that when the houses then in process of building upon the lots were finished they would be good security respectively for each of the $2,000.00 loans.

In the then state of the buildings and subject as they were to the blanket deed of trust to Adams for the ground, perhaps no one of them would have been a sufficient security for the loan upon it.

In view of this fact it had been agreed between Hooper and Balloch that the money should be paid over to Balloch, one-half when the roofs were on and the remaining half when the houses were completed, and a certain percentage of the first payment was to be applied upon the Adams trust. This was the agreement upon which the loans were made, and of course the company would not have made the loans upon these houses at that time if all the money was to have been paid at once.

This loan was to bear 8 per cent. interest, payable semi-annually. As a condition of making the loan Hooper as agent of the company required Balloch to

purchase from the company two houses and lots, Nos. 14 and 15 in square No. 722 at the price of $.

The company had previously made loans upon these houses to one Archer, who had failed to pay the debt, and the property had been sold to satisfy the trusts and purchased by the company.

It wanted to get rid of these houses, and as Balloch wanted money pretty badly Hooper made him buy them as a condition of making to him this loan.

It was also agreed that $800 of the purchase-money should be deducted out of the loan, and Balloch gave his notes at 8 per cent. interest payable semi-annually, secured by trusts upon the property for the deferred payments.

These arrangements and agreements all being settled, Balloch made his eight promisory notes for $2,000 each, and eight deeds of trust to secure the same, and delivered them to Hooper, and he had the deeds of trust recorded and the notes and trusts forwarded to the company, and the company sent to Hooper on June 4, 1879, a draft for $7,418.50, payable to the order of Balloch, and on the 9th of July, 1879, it forwarded to Hooper a like draft for $7,200, payable to his own order, making $14,618.50, the company retaining out of this loan $1,381.50, being $581.50 for interest, and $800 for payment upon Archer houses.

October 17, 1879, Balloch made in precisely the same way from the company through Hooper, another loan of $10,200, divided into six notes of $1,700 each, and each secured upon one of the S street lots by deed of trust.

On same day the company sent Hooper a draft payable to the order of Balloch for $4,105.08, and on December 24, 1879, a draft for $4,453.58, the company deducting from this loan $1,224.68, account of interest,

and $416.66, account of payment on Archer houses, making $1,641.34 deductions.

These drafts were all like the first, made payable to the order of Balloch, but were sent to Hooper. When the drafts arrived Hooper notified Balloch, who called on Hooper, and at his request endorsed the drafts, and Hooper deposited them in the Second National Bank to his own individual credit.

Balloch's building enterprise required a good deal of money to keep it moving, and he claims that Hooper refused to let him have money as fast as he was entitled to it under their agreement.

Hooper in his testimony admits that he was dealing with the money, loaning it out in large sums and small, for his own benefit. See his testimony, p. .

As fast as Balloch could get the money it went into the buildings, but he needed more money, and on July 17, 1880, he made another loan for $9,000, being divided into three notes of $2,000 each and one of $3,000, and they were each secured by deeds of trust upon four of the 16th street houses not covered by the other trusts. These notes and deeds of trust were alike in all respects to the preceding. But upon these notes Balloch never got any money at all.

On the 17th of February, 1880, Hooper received from the company on account of said loan $6,750, but he paid no part of it over to Balloch, although he was beseeching Hooper to let him have money to prosecute his work.

The company had as before made it a condition of the loan that Balloch should buy a house from it. This time it was known as the Howard house and the payment deducted on account thereof was $750. The company also retained from this loan $1.412,35 for interest up to May 15, 1880, upon all notes of Balloch held by the company. Subsequently a draft for

$87.65 was sent, making up the $9,000.00, out of the whole of it Balloch got nothing.

Hooper had for some time before been determined to squeeze Balloch out entirely by withholding his money and thereby making it impossible for him to carry on his work which required a good deal of active money.

After he got the last loan, Hooper tightened the compress. He says: "*Balloch was pressing me pretty hard for money.*"

He was turning Balloch away upon the pretence that his work was not sufficiently advanced to entitle him to it, while he was writing to the company and telling it, that the houses were finished, and getting the certificate of the company appraiser to the same falsehood, that he might get into his own hands the money for his own purposes.

Balloch's property was now all incumbered so that he could borrow no more money and his work was paralyzed for want of means. Hooper now proposed to him if he would convey all the property to him he would finish the houses and give Balloch three-fourths of the profits and retain one-forth for himself.

Having no other resource, Balloch at last reluctantly yielded. Hooper had himself prepared the deed in advance, and so soon as he succeeded in getting Balloch to sign it, he produced the deed and had it executed.

Balloch Conveys all the Property to Hooper.

On the 25th day of February, 1880, Balloch made to Hooper the deed found on pp. 189, 190, Rec. By this deed Balloch conveyed to Hooper all the lots covered by the three trusts, the three pieces of property which Balloch had purchased from the company as one of the conditions upon which the company made the loans known as the two Archer houses and the Howard

house, and it also covered the six lots upon Swan St., in the same square as the lots covered by the deeds of trust, but not embraced in either of said trust deeds and upon which neither the company nor Hooper had any right or claim whatever.

The Consideration.

The nominal consideration stated in the deed is "five thousand dollars previously advanced, and one dollar lawful money of the United States to him in hand paid."

But no consideration was paid and none was to be paid, according to Hooper, it was a mere *gratuity.*

According to Balloch, the consideration was the agreement that Hooper would immediately proceed to finish the unfinished houses and divide the profits, giving Balloch three-fourths and Hooper one-fourth.

What was the Character and Purpose of this Deed?

This deed is a very important factor in this case. Let us see what was the character of the deed, what the consideration, and what, if any, was the agreement concerning it?

Hooper says in his answer (p. 15, Rec.):

"Shortly after this loan (the last one) was made, to wit: Feb. 25th, 1880, the complainant of his own volition voluntarily transferred and conveyed to this defendant all the said property before included in the said several deeds of trust, together with certain other lots described in the conveyance then made, which property was taken by this defendant for the purpose of better securing the said company in the ultimate realization and collection of the moneys so as aforesaid loaned to the complainant."

Hooper on the Witness Stand.

When on the stand as a witness, on page 204 Rec., he was asked by his own counsel:

"Q. I call your attention to the deed from Balloch to you of February 25th, 1880, filed with the complainant's depositions and marked Exhibit C. L. H., No. 8, I wish you to state the circumstances under which that deed was executed to you by complainant.

"A. Mr. Balloch pressed me pretty hard for money; made three requests that I should take these houses and complete them. I positively refused—at last I consented to take a deed of the whole property, and he said he would sign it. I drew it up, Mr. Terry then being in jail. Balloch did not want to sign it until he had offered the property to a company on whose prosecution Mr. Terry was in jail on condition that they should release Terry from further prosecution. A lien of $1,000 was put on the property by John D. Kitch, and I pressed Balloch to sign it before other liens were put on. He did not sign it until after the company refused to release Terry. He then signed it and handed me the deed.

"Q. Please state under what circumstances that deed was executed by Balloch to you—for what purpose?

"A. To convey this property to me that I might go on and finish the houses."

Again on page 210 Hooper is asked by his counsel—

"Q. I invite your attention to the statement contained in the lead-pencil memorandum, purporting to have been made by George W. Balloch, referred to in your testimony at the last session. What statement or agreement did you make with the complainant concerning profits, if any, growing out of the completion and sale of these houses at the time the conveyance was made to you in February, 1880?

"A. Robert A. Balloch never asked me for any consideration for the deed of this property to me, but

after he had agreed to execute the deed, *I said to him that if I made anything out of it he should have one-quarter.*

"Q. What did he say to that?

"A. He made no reply, nor did he ever allude to it again until after this suit was brought."

On cross-examination at p. 234 Hooper was asked by counsel for complainant.

"Q. At the time, Mr. Hooper, of the deduction of this $1,412.35 to wit: April 15, 1880, is it not true that you and the company, jointly or otherwise, held all of the unexpended balances of the loans made by the company to Balloch, as well as all the property covered by the three Balloch loans, together with the Archer houses, the Howard house, and six or eight unimproved lots on the square bounded in part by 16th and S streets northwest; upon which the company or yourself had previously had no claim.

"A. No money was ever withheld by the company and myself jointly. This $1,412.35 was withheld by the company and not by me. All the property conveyed in the deed of Balloch to me I held. The unexpended balances I held."

[The witness here referred to the large balances of the three loans to Balloch which he still held and had refused to pay over to Balloch, which balances at that time amounted to $7,827.26. See Auditor's Rep., Sched. F, p. 309, Rec.

"Q. This Balloch deed, as I understand included the six or eight unimproved lots upon which the company and yourself had previously had no claim"?

"A. It did."

"Q. For whose benefit did you hold all this real estate?"

"A. For the benefit of *myself*.

"Q. What consideration eminating from yourself did you at the time of the conveyance give for it?

"A. Nothing in money—I took all the risk of the enterprise.

"Q. Have you ever given anything in money or any kind of property, and if so, when, how much, and if property what kind?

"A. *Nothing.*

P. Rec. Hooper says in answer to question.

"A. The houses were never conveyed to me for the benefit of the company. They were held by me in my own right at the time here specified. [April 1880.]

The court will see that Hooper as a witness contradicts his answer. Hooper as a witness swears that Balloch made him the deed in fee for all this property, not as an additional security for the loans of the company as justice James concludes, but for *his own individual benefit upon the consideration that "he undertook the risk of the enterprise."*

What was conveyed beyond the Property covered by the Trust Deeds?

If this was a mere gratuity one would think Hooper might have been satisfied with a present of the lots and houses covered by the trusts. *But no; he demanded everything Balloch had.*

Let us see now what Balloch gave Hooper by this deed in addition to all the property covered by the deeds of trust and the Archer and Howard houses.

The auditor finds the balance of trust money in Hooper's hands, February 25, 1880 . .	$7,827 26
Cash paid on two Archer houses July 9, 1879; first loan	800 00
Do. 2d. October 17, 1879, . .	416 66
Do. 3d. February 17, 1880, on Howard house; third loan	750 00
See Schedule E, p. 308, Rec. Swan street lots (Schedule F, p. 309, Rec.) . . .	1,333 00
Making	$11,126 92

In addition to all this the Auditor finds, Schedule M, p. 312, that Balloch had put into the houses from sources other than the loans from the company $12,552.28.

Is it probable that Balloch intended to give all this property to Hooper?

Indeed Hooper says that Balloch did not ask any consideration, but after he had agreed to give the deed he (Hooper) said to him, "*if he made anything out of it he would give Balloch one-fourth of the profits.*"

Upon his own testimony I think it is manifest that the deed was not a *gratuity*, but was a trust to finish the houses and account to Balloch at all events for a share of the profits. Hooper is not corroborated by any other testimony in the case.

Balloch's Testimony.

Pp. 48, 49, Rec., Balloch in reply to a question by his counsel, says:

"A. * * * * * That the action of the company's agent so embarrassed me that persons began pressing and suing me, and being fearful that neither my creditors nor myself would be able to realize anything out of it, I made the transfers to the company, thinking that by so doing I would save my creditors and myself money with the understanding before I made the transfer. [Here witness was interrupted.]

Resuming. "I wish to make this statement; that before I made every effort I could to induce their agent to allow me to go on with the building and improvements, and among other offers I made to him was that he employ a man at my expense to superintend the construction of these buildings and he would not agree to that, and then I made the transfer to the company with the understanding that after the completion of the houses and the sale thereof, and certain debts were paid, of which I gave him a list, I was to

receive three-fourths of the profits and the agent one-fourth of the profits."

"Q. Mr. Balloch, in your answers you stated that owing to certain facts you became alarmed that you and your creditors might lose on account of the improvements. Will you be kind enough to state to the examiner what facts you refer to?"

"A. That he would not advance the money as agreed upon and that persons began suing me. I do not think that persons prior to that had gotten judgment; they did directly afterwards. I wish further to state that I gave Mr. Hooper a list of all the outstanding debts against me in regard to this property, which he agreed to pay as the agent of the company.

"Q. Mr. Balloch state whether or not you ever received any proposition from the defendant, the insurance company, or the defendant Hooper in relation to the transfer of the property to them; and, if so, what?

"A. Mr. Hooper sent after me a number of times and asked me to make this transfer to him, and I, after several conversations with him, desired him to pay certain indebtedness, all of which he refused with the exception of one, when I made the transfer he desired me to make.

"Q. Were these propositions on the part of the agent (Hooper) made to you prior to any suggestions from you or after?

"A. They were made prior. He first intimated to me that I should make the transfer to him."

Witness was asked to state the contract, p. 50.

"A. The verbal agreement between the parties and myself was that they should *immediately* complete the work on the buildings, settle with the parties—of whom I gave him a list—that had claims against me, pay me three-fourths of the net profits, and to retain one-fourth.

"Q. Mr. Balloch, after the houses were to be completed, what was to be done with them?

"A. The property was to be sold to the best advantage and the profits were to be divided as heretofore stated."

The subject is further pursued at some length, but this is all that is material in this connection—on page 57 Balloch says:

"A. You want to know from me whether I made any demands on Mr. Hooper prior to making that transfer to have him advance me money; I, at various times, before ever having thought of making this transfer to Mr. Hooper, applied to him to advance me the money as per agreement and that he over and over again refused to grant; and I even made this offer that he put a man in the building to superintend the work at my expense and he would not grant it, and then having possession of the property by deeds of trust and holding my notes I was entirely unable to do anything, and was compelled under the circumstances to agree to his request, frequent request, to transfer the property to him. I could not make any other loans they having the trusts on the property."

On p. 96, Ballach was asked upon cross-examination:

"Q. Will you please state again Mr. Balloch, the circumstances that led up to the making of that deed?"

"A. Well, sir, after repeated solicitations on my part to Mr. Hooper to make the advances agreed upon when the loans were made, not being able to make him comply with my request over and over again made by myself, and after his solicitations to me several times to transfer the property to him, it was done, he agreeing, if I would do it, *that he would immediately complete the work on all the houses*, for which I agreed that he should have 25 per cent of the profits and I to have three-fourths."

"Q. What interest had the company, defendant insurance company in that agrrangement, if any?"

"A. He was the agent and trustee of the company; at that time he was the trustee in all the deeds to the company.'

"Q. Acting for them?"

"A. Acting for them."

"Q. Was this transfer to him for the company, or in his individual right?"

"A. I think he was acting for the company; I transferred to him, but the transfer was virtually to the company; that was my idea about it."

"A. All the conversation passed between myself and Mr. Hooper, but I have not a doubt that Mr. Hooper, as agent of the company, and being trustee in all these deeds would be held."

"Q. Who would be held?

"A. The company would be held for his acts, as their agent."

"Q. Why did you not put it in the deed that way?"

"A. I did not think it made any difference."

Gen. Geo. W. Balloch, before whom the deed of Feb. 22, 1880, was acknowledged, as a notary public, was called by complainant. The deed was acknowledged in his office. He says, p. 129:

"They (Hooper and Balloch) talked the matter over, and made the arrangement about it, *and asked me to witness it*, but I did not dare to trust my memory, and took this pencil memorandum which I have in my hand, and which I have preserved ever since, made at the time in the presence of both the gentlemen."

Witness was asked to read the memorandum.

"A. (Reading from memorandum.) Memorandum of agreement made this 26th day of February, 1880, between Robert A. Balloch and William R. Hooper. Mr. Hooper is to finish the houses on 16th street and S street, and when the same are sold he is to retain one-fourth ($\frac{1}{4}$) of the net profits, after all bills and demands are paid now standing against the said Balloch on account of said property, the remaining three-fourths ($\frac{3}{4}$) of the net profits to be paid to whomsoever I may hereafter name. It is understood that the bills named in the schedule are not to be paid until Mr. Hooper can arrive at the amount of equity in the property."

The witness then identifies Ex. C. L. H., No. 10, as the schedule of debts referred to in the agreement, a copy of which he says was given to Mr. Hooper at the time. p. 130.

The same witness says, commencing on p. 128:

"I am an insurance agent and had several of these buildings insured, and the policy was made payable to Mr. Hooper, trustee, in case of loss. Early in the winter of 1880 Mr. Balloch made complaint to me that Mr. Hooper had not paid over to him all the money that he ought; that the building of the houses was stopped and he was having a good deal of trouble about it. Finally some arrangement was entered into between them by which Mr. Hooper was to take the property and finish up the houses, sell them, pay himself a commission, and pay Mr. Balloch the equity. That arrangement consummated in the deed made February 26th, 1880. When I was informed by Mr. Balloch that such an arrangement had been made I went to see Mr. Hooper about it. Mr. Balloch was owing me quite a sum of money, and Mr. Hooper said to me, 'I have looked over the matter carefully—over the schedule of debts that Balloch has reported—and I think after finishing the houses and paying myself a good liberal commission, there will be at least $15,000 coming to Mr. Balloch, and if you will get an order from him I will pay you.' I spoke to Mr. Balloch about it and he agreed to give me the order, but never gave it.

On the 26th day of February, the day that the deed was acknowledged, Mr. Balloch made out in my office two schedules, one of which he gave to Mr. Hooper and the other he kept himself. Schedule of bills due on the houses."

On cross-examination, Gen. Balloch was asked:

"Q. Did you read that memorandum over to Mr. Hooper at the time of the execution of the deed or ever?

"A. I read it over at the time I took it down, and asked if that was the understanding about it? They were both there. That was the substance of the agreement, and I wanted to see that it was all right, that I might not be mistaken."

Gen. Balloch says that complainant is about a sixth cousin of his.

All the Testimony on That point.

The foregoing is substantially all the testimony on both sides as to the reasons for making the deed of February 25th, 1880, by Balloch to Hooper.

The evidence is overwhelming that the deed was made to Hooper in trust to finish the houses, and sell them and divide the profits, giving Balloch three-fourths and retaining one-fourth.

Hooper Was to Proceed Immediately to Finish the Houses or Those That Were Unfinished.

Hooper says he was to finish the houses, and Balloch says "immediately."

On p. 52, examination-in-chief, Balloch says in answer to the question as to when by the agreement the houses were to be completed?

"A. He was to commence *immediately* and complete the buildings."

Upon cross-examination at p. 100, Balloch says:

"A. The houses were to be completed *immediately*, in the most economical manner, and the sales were to be made and I was to be paid my portion of the proceeds of the sales."

Agreement implied by Law.

In the absence of any agreement as to the time

within which the houses should be finished the law would imply that it was to be done with reasonable diligence.

Within what Time the Houses might have been Completed with Reasonable Diligence.

Mr. Terry on p. 148, is asked:

"Q. Within what length of time could these houses have been completed at the time of the transfer if proper diligence had been used in the completion of them?"

"A. Seven of the houses on 16th street could have been finished in thirty days; six on S street could have been finished in ninety days; the corner house and the one nearest to it on 16th street could have been finished in four months."

Upon this point I believe no other witness has testified. The defendants have offered no testimony. They were apparently satisfied with this.

When the Houses were in Fact Completed.

Mr. Terry on p. 148, Rec., testifies that the houses were in fact completed about two years after the transfer.

What was the State of the Buildings and what would it have Cost to Finish them for Occupancy on the 25th of February, 1880, when the Deed was made to Hooper.

The following is a summary of the evidence in the record on these points:

Mr. TERRY says (examination-in-chief before examiner):

Page 215—Q. Then, Mr. Terry, will you be kind enough to state what the necessary expense would have been to complete them? Please state in detail.

A. Seven of the houses on Sixteenth street, I think, $200 apiece would complete them. One house on Sixteenth street was completed, and a tenant was livin it, I believe. Five of the houses on S street it would take $400 apiece to finish. One house, the west of the S street row, $500. It would take about $2,500 to finish the corner house, S and Sixteenth streets. The one next to that it would take $900 to finish. The two north of that it would take $500 apiece to finish.

* * * * * * *

Page 216—Q. In your previous answer, did you state the aggregate amount necessary to complete the houses? If not, state the amount.

Page 217—A. $8,300.

Q. State what efforts you made to ascertain the amount necessary to complete them, and upon what, in addition to your own judgment, you base the estimate you have given.

A. The contract for the plastering of the houses was made with Hobbs, at $100 a house. I inquired of those who had the work to do, outside of my own figuring. I inquired of them as to what it would cost to finish each house.

Q. Did they give you estimates?

A. They did.

Q. Were those estimates in excess or under the figures you have given, or the same?

A. On the Sixteenth-street houses they were less than I have named. In regard to the S-street houses, they were in harmony with what I have stated. This answer has reference to all except the corner and the next three. That was based wholly upon my own figuring.

Mr. Balloch (examination-in-chief before examiner) says:

Page 29—Q. Mr. Balloch, will you be kind enough to state what it would cost per house to finish the improvements?

A. Well, I will answer that in this way; That the five west houses on S street I estimated and got estimates for the completion of. The five west houses on S street $400 apiece, and the east house on S street, on the corner of the alley, $500.

Q. The east house?

A. The east house on S street—I estimated the corner house, on Sixteenth and S, at $2,500; the one next to it, $900, and the two next to that at $500 apiece; seven at $200 apiece.

Q. That makes all, does it?

A. That makes all.

Q. Mr. Balloch, those sums made $8,300 as the amount necessary to complete the houses?

A. Yes, sir.

Mr. PUMPHREY (examination-in-chief before examiner) says:

Page 265—Q. From your knowledge and experience as a builder and your knowledge of the condition of the houses at the time of the transfer, can you state approximately what would have been the cost of completing those houses?

A. Yes, sir.

Q. Now, will you be kind enough to state, as near as you can, the necessary expense to have completed the four houses (on S street) that had been rough-coated, per house?

A. The two houses that we termed the eastern houses I estimated on, I remember, at, I think, $290 or $295 apiece, including the carpenters' work and the lumber to put up fences, wood sheds in the rear, and the porches in front. I think that is what I estimated it at at the time.

Q. State whether or not that contemplated the entire completion of these houses except as to stoves.

A. Yes.

Q. What would have been about the necessary cost to have completed the other four houses?

A. There should have been about $60 a house additional cost; they are all the same model.

Q. Making those cost about $350 to complete them?

A. It would be $350 or $355 to complete the other four—the west four.

Q. Mr. Pumphrey, were you ever in the Sixteenth-street houses?

A. Yes, sir; I was through at different times. I was through a good many of them. I hung the outside blinds in the rear, I think, to a good many of them.

Q. * * * State the condition of those houses at the time of the transfer by Mr. Balloch to Mr. Hooper commencing with 97 and extending north to 90.

A. I was through several of those houses, eight, nine, or ten, and the plastering and trimmings were finished. I think Mr. Gessford had the trimmings. I do not remember whether the mantels were set or not; they were then in the building, and the doors.

Q. Was there anything to be done to those houses except the painting?

A. I cannot remember exactly whether the inside shutters were in or not. It appears to me they were nearly completed. I think I estimated on finishing one or two after the three south houses. I think I estimated on house on lot 96 for Mr. Hooper.

Q. Do you remember whether or not the houses to the north of this row were substantially finished, and as you came south they were possibly in a less finished state?

A. Yes; these houses down here (pointing to lots 87, 88, 89, 90, &c.,) were finished as far as my memory serves me, and, I think, without any exception, to the best of my recollection.

Q. And the houses on lots 90, 91, 92, etc., going south, down to 97 were nearly completed?

A. Yes, sir. These two (pointing to lots 96 and 97) were the farthest from being finished, because Mr. Hooper asked me to look at them, and I was asked to estimate on them.

Mr. Gessford (examination-in-chief before examiner) says:

Page 276—Q. Will you look on this plat marked

"Ex. G. L. H. No. 1" and state to the examiner the condition of the houses or improvements, commencing with lot 96 and running north, at the time of the transfer?

A. The carpenters' work from 93 to 87 was nearly finished when this thing happened, and from 96 to 94 inclusive was not so nearly finished.

Q. Will you state as near as you can about the approximate cost of completing those houses at the time?

A. As near as I can judge—we will have to take the seven houses first—I think about $250 apiece.

Q. These are the north seven. The houses on lots 94, 95 and 96 would cost about how much?

A. I suppose $300 to $400.

* * * * * * *

Cross-examination:

Page 278—Q. What house was it that you worked on (under Hooper)? Can you tell?

A. I am not positive, but I judge the house on lot 96. I am not positive.

HESTER (examination-in-chief before auditor) testifies:

Page 393—A. Well, I should judge that they were not completed; they lacked an outlay of $200, perhaps $250.

Q. Each?

A. Each, to bring them up to the same state of completion as the others.

Q. What would you estimate to have been the value of the improvements on the three houses south of the ten in relation to which you have just been testifying on the 17th of February, 1880, if you remember distinctly?

A. Well, they must have needed $400 to bring them up to completion; the roof was not on them.

* * * * * * *

Q Do you remember the condition of the improve-

ment on the corner house on the south lot, corner Sixteenth and T [S]?

* * * * * * *

A. Well, there must have lacked seven or eight hundred dollars to finish that house; perhaps a little more than that. Seven or eight hundred dollars I should say it would have taken to finish that house.

Mr. GROFF (examination-in-chief before auditor) testifies:

Page 404 (Ex.)—A. If I understand aright, the three or four north houses were completed, and my recollection of the matter is that there were ten houses that were all plastered and white-coated, and then you come down to the last four; several of these were topped out, and the last one I think had the second-story joist on—the corner of Sixteenth and S streets.

Buildings should have been Finished for $8,393.55.

Upon this testimony the Auditor found that on the 25th of February, 1880, it would have required to finish all the unfinished houses $8,393.55.

See Auditor's Report, Schedule "C," p. 306.

Neither side excepted to this finding of the Auditor, and by the rules of the Court it became absolute thirty days after the filing of the report.

It is now an established fact in the case. Even this Court could not go behind it if it were so inclined.

I have, however, presented the evidence that the Court may see that the finding is fairly based upon the proofs.

Hooper took Possession.

Immediately after the delivery of the deed on the 26th of February, 1880, Hooper took actual possession of all the property covered by the deed, and from that time to the present Balloch has had nothing to do with it.

What Balloch had Received on Account of the three Loans up to February 25, 1880.

Now let us see what Balloch had in fact received upon account of these three loans, aggregating $35,000.00 at the time of the transfer on the 25th of February, 1880, from Hooper.

The account is stated by the Auditor in Schedule "F," p. 309, under the heading:

Statement of the Account between the Complainant and the Defendant Hooper on the 25th day of February, 1880.

Hooper received from the complainant the several drafts sent by the company as enumerated in Schedule E, excepting the one of April 15, 1880.	$29,927 16
He dispersed on account of complainant and the work to February 25, 1880. .	22,099 90
Balance on hand.	$7,827 26

It is true that the Auditor says that Hooper afterwards paid off encumbrances and liens on the property existing at this date, and otherwise disbursed on account of the property in excess of the receipts therefrom an amount greater than the balance in his hands above stated; but we are now dealing with the conditions at the time of the transfer, *as all dealings between Balloch and Hooper ceased at that time.*

Hooper had undertaken to finish the houses and the property had all been conveyed to him to enable him to do it.

At that time it required to finish the houses	$8,393 55
Hooper had in hand	7,827 26
Or enough for that purpose within . .	$566 29
But the Auditor also finds that there were liens and encumbrances other than the company trusts amounting to . . .	$14,696 39
Leaving after the houses were finished a deficit of	$15,262 68
Add amt. actually received on loans .	29,927 16
Supposing the houses finished the debt against Balloch would be . . .	$45,186 84
The interest on all the company loans was paid up to May 15, 1880, add say 2 years interest on $29,927.16, say . .	4,788 34
Interest 2 years from February 25, '80, the debt, principal and interest against Balloch would have been	$49,978 18
Cr.	
The houses were all finished in about two years, and between March 29 and June 1, 1882, the 6 S-street houses and 2 of the 16th street houses were sold by Hooper and company for . . .	29,400 00
Balance due company June 1, 1882.	$20,578 18
Against this balance Hooper holds 10 16th-street houses, worth at that time $3,500 each—$35,000. Swan street ground, 9,780 feet, Auditor estimated at $1,333, . .	36,333 00
Balance in Balloch's favor June 1, 1882.	$15,754 82

Or about what Gen. Balloch testified Hooper told him would be coming to Balloch after the houses were finished and sold and the debts all paid. There has since been a great appreciation in the value of the property, the 10 houses are now worth $6,000 each—$60,000. The 9,780 feet of Swan-street ground is worth $1.50 per foot—$14,670.	74,670 00
From which deduct amount due company June 1, '82.	20,578 18
At present estimated values the balance in Balloch's favor. .	$54,091 82

I make no account of interest because the houses have always been under rent, and the rents would much more than pay the interest, taxes, repairs, and insurance upon Balloch's debt if he is charged with what he received and not with Hooper's account with the company.

I do not of course claim that the foregoing calculations are exactly accurate, but upon a re-accounting, which I think should be ordered, it will be found to be approximately correct.

Archer and Howard Houses left out of the Calculations.

We have left out of the foregoing calculations entirely the payments upon the Archer and Howard houses purchased by Balloch from the company as a condition of the three loans, and interest deducted by the company from the original loans on account of interest upon deeds of trust upon these houses which the company took from Balloch to secure deferred payments thereon, for the reason that these properties

were all conveyed to Hooper by the deed of February 25, 1880, and Balloch had held the two Archer houses but a few months and Howard house but a few days, and had received nothing from them, save, possibly, a little rent from the Archer houses. I assume that these properties were worth what the company charged Balloch for them, and as the company and Hooper got them back so shortly after Balloch's purchase from them and without any consideration, I have entirely omitted them from the calculation. I have not taken into the account any interest due the company upon the loans up to February 25, 1880, as it had deducted from the last loan interest upon all its trusts up to May 15, 1880, so that the interest was overpaid.

If the accounting was with Hooper alone it would hardly be questioned that our statement is substantially correct, as it is based upon the findings of the Auditor.

Hooper finished four of the Sixteenth Street Houses.

During the Spring and Summer of 1880, Hooper finished four of the 16th St. houses and rented them, and he then seems to have suspended work, probably for want of means.

Frank H. Smith visits the Company at Springfield, Massachusetts.

About Oct. 9th, 1881, Hooper sent his friend, Frank H. Smith, to Springfield, Mass., the home of the company, to explain the situation to it.

It is claimed that the company knew nothing of what had transpired until the visit of Smith,

It seems incredible that the company should have suffered this large matter to remain from Feb. 25th,

1880, until the Fall of 1881 without inquiring into the situation, or without having heard from Hooper. In the meantime their agent had taken a deed for the whole property upon which it had deeds of trust aggregating $43,510.00 and had been treating it as his own for 17 or 18 months, and yet they knew nothing of the situation. This is too improbable for belief. It is certainly not the way that money corporations conduct business.

The result of Smith's Visit.

The result of Smith's visit was, that the company assumed Hooper to be the rightful owner of all Balloch's property subject to its deeds of trust. It would have us believe that it acquiesced in this situation without an enquiry as to how their agent became possessed of all this property, including valuable and unincumbered property upon which they had no lien.

Balloch was living in this city and might have been easily seen at any time, but they chose to entirely ignore him, and dealt with Hooper as though Balloch had never been.

The company had Balloch's notes for $35,200.00, secured by deeds of trust on the 16th and S street houses and lots. It held three other notes secured by as many other deeds of trust on the Archer and Howard houses amounting to $8,250.00.

The Company Cancels all Balloch's Notes, and Hooper as Trustee Releases All the Trusts.

Without saying a word to Balloch and without his knowledge or consent it cancelled all his notes, given for the three loans and Hooper executed a deed of release of the three deeds of trust, upon the 16th St. and S St. lots made to secure said notes (see Rec., p. 195.)

In said deed of release is the following:

"And whereas the said indebtedness and all interest, cost, and expenses thereon having been fully paid and discharged, as in evidence by the signature hereto of E. W. Bond, president of the Massachusetts Mutual Life Insurance Company, of Springfield, Mass., the said party of the second part is thereby entitled to a reconveyance of said described premises, and to have the same released and discharged of, and from all liens, claims, demands, or incumbrance, by reason of said deeds of trust, or anything therein contained."

This deed was placed on record by Hooper and the Insurance Company without the knowledge of Balloch, in the deed records of the District of Columbia, March 21, 1882, although it was executed on the 1st day of November, 1881.

The Company Took From Hooper a Deed of Trust for $71,000.00.

The company then November 1, 1881, took from Hooper a blanket deed of trust upon all the property conveyed to him by Balloch by the deed of February 25, 1880. But the said deed was recorded January 27, 1882, in the deed records of the District of Columbia.

The company at the request of Hooper employed the said Smith to go on and finish the unfinished houses.

The company did not advance to Hooper any money upon this trust, but it was intended to protect it for what it might thereafter expend, over and above the Balloch trusts, in finishing the houses.

The Company Undertook the Work for Hooper.

So that although the work was to be done by the company, it was done for Hooper, and was to be charged to him upon the $71,000 trust upon Balloch's property.

Smith Finishes the Houses.

Smith placed his son, a youth of twenty-one years, in charge of the improvements, and thereafter had no practical knowledge of the progress of the work, as his testimony will show.

Young Smith had never built a chicken-coop, and his experience theretofore would not have given him the slightest knowledge of the business he had undertaken.

Smith Finished Thirteen Houses.

There were in all eighteen houses covered by the company trusts; one of them was finished and occupied by a man named Hester before Balloch transferred them. Hooper finished four; so but thirteen remained for Smith to finish. These houses were finished in the early part of 1882.

The company claims to have expended in finishing them	$20,298 25
Besides $2,250 commissions paid to Smith.	
Hooper claimed to have expended on the north four houses, not including the Hester house	3,965 50
Making in all expended by Hooper and the company in finishing the houses.	$24,263 75
Both these amounts are stated and allowed by the Auditor in Schedule H, p. 310, Rec.	
The Auditor found the amount required to complete the seventeen houses was . .	8,393 35
So they expended more than was required .	$15,873 60

The only excuse given by the Auditor for this ex-

traordinary allowance is found on p. 301.

He says:

"It will be observed in Schedule C that the amount expended by the defendant Hooper and the defendant company in completion of the houses after the transfer to Hooper is in excess of the amount estimated by the complainant's witnesses as necessary for that purpose. It appears that changes were subsequently made in the designs of the houses and in the plumbing, location of bath room, etc., which increased the cost to some extent."

The Auditor does not find to what extent, but the testimony shows that the increase was a mere trifle, if anything—one hundred dollars would have covered it all.

The insufficiency of the Auditor's volunteer excuse will glaringly appear from the testimony of Mr. C. C. Duncanson, who was called as an expert by the defendants below to testify upon the matter of the cost and value of the houses, he made an examination of the houses at the request of the defendants below to enable him to testify.

He testifies (see p. 416) that the S-street houses were worth—

Each	$1,700.	
The corner house	$2,800.	
The six 16th-street houses each .	$1,900.	
Total cost of the 13 houses, . . .		$24,400 00
The Auditor allowed Hooper & Co. for finishing them		24,263 75
		$136 25

Amount allowed Hooper and the company for finishing the houses is within $136.25 of what it would cost to build them all from the ground up.

And in the same statement of account he finds upon the evidence that $8,393.35 on the 25th of February, 1880, would have finished the whole seventeen houses.

How the Money was Expended by Young Smith.

To show that neither Smith the father, nor Smith the son, who superintended the work really knew practically nothing as to how the money went and for what I subjoin liberal extracts from the testimony of each of them taken before the Auditor.

The Improvements the Company Made Through Smith and the Way it was Done, etc.

Mr. FRANCIS H. SMITH (examination-in-chief before auditor testifies:

Page 436 et seq—Q. What connection, if any, Mr. Smith, had you in the matter of the improvements or construction of the unfinished houses on Sixteenth and S streets involved in this suit, and when did you first have anything to do with it?

A. My firm, F. H. Smith & Son, were employed by the Massachusetts Mutual Life Insurance Company, at the request of Mr. Hooper, to complete these unfinished houses in the latter part of the summer or early in the fall of 1881, if I remember. I made a verbal arrangement with the Massachusetts Mutual Life Insurance Company to complete these houses at their expense, and under that arrangement went on and did complete them.

Q. From whom did you obtain the money for this purpose.

A. From the insurance company.

Q. How was it forwarded to you?

A. It was paid from time to time on drafts drawn by us as the work progressed.

Q. Did you keep an account of your receipts and disbursements in this matter?

A. We did.

* * * * * * *

Q. Then, as I understand, you had full charge of the property for the purpose of completing the houses, their rental, and care and management?

A. Yes.

Q. How long was that continued?

A. The houses were completed, I should say, about the middle of the summer of 1882; we still have charge of them and have had since that time.

Q. Then your firm kept the account of your transactions, showing your receipts and disbursements on account of these improvements, and so on?

A. Yes.

Q. Did you from time to time furnish statements to the company concerning the improvements, revenues, and disbursements of this property?

A. We did. After a certain time, I cannot give you now the date, Mr. Hooper resumed the control; since that time our statements have been made to him.

* * * * * * *

A. These statements were made by us from time to time to the insurance company as the work progressed. The vouchers accompanying each were forwarded to the company at the time the statement was rendered. * * *

Q. Who made up these statements, Mr. Smith?

A. They were made up by my son, Frank B. Smith, who was a member of the firm at that time, and who keeps the books.

Q. What do they relate to?

* * * * * * *

They include all the revenues received from whatever source, and all payments made on whatever account for the company.

Q. What agreement, if any, was made with you—your firm—concerning your compensation?

A. We were to receive 5 per cent. for the collection of rents and 10 per cent. for the superintendence of the work and disbursement of the money.

Q. What efforts, if any, to economise were exercised by your firm in the matter of the improvements, care, and preservation of this property?

A. We made every effort in our power, by competi-

tion and otherwise, in bids to obtain the material at the lowest practicable rate, and to bring the labor account to the lowest practicable amount.

Q. Who acted as financial agent or disbursed the moneys that were sent to you for this purpose?

A. My son mainly, for the firm perhaps; I may say altogether.

Q. He was the same one, I understand, who kept the books?

A. Yes.

* * * * * * *

Cross-examination:

Page 439—Q. I understand, from your statement, also, that the money involved in the completion of these houses was not disbursed by you personally?

A. No.

Q. That the accounts of rents arising from the houses were not kept by you?

A. No.

Q. Indeed, that none of the accounts of them were kept or made by yourself?

A. No; the junior partner of our firm keeps the books, and nobody ever writes in them except himself.

* * * * * * *

Page 440—Q. How were the contracts for the completion of these houses made?

A. In part by contract, and very largely by day work.

Q. Did you testify a few moments ago that for the purpose of economizing and completing the work at the lowest possible cost that the work was done by contracts that were made by competitive bidding?

A. Yes; so far as the contracts were made.

Q. You did make that statement?

A. Yes.

Q. In case of the making of these contracts by competitive bidding was the bidding—were all builders to compete in the bidding?

A. No; part was given, as I recollect; but builders

were bidding for the entire work. Our plan was to contract separately for each class of work.

Page 440—Q. How many bids did you take in relation to each class of work?

A. I can not answer your question accurately or even approximately at this distance of time.

* * * * * * *

Q. What part, if any, of the carpenters' work was done by contract?

A. I can not answer that question now. I have not thought of it for years.

Q. Was the brick work done by contract, or how?

A. I can refresh my memory and give you all the items, or my son will do it when he comes upon the stand.

Q. Do you not know or remember whether the brick work was done by contract or not?

A. No; I can not tell you at this moment.

Page 441—Q. If you do not know whether the carpenters' work or the brick work was done by contract, how do you know or how are you able to testify that for the purpose of economy competitive bids were accepted in the completion of these houses?

A. I remember this very distinctly that at the beginning, after a good deal of consultation as to what would be the best plan for the construction of the buildings, that was the arrangement determined upon. After that I was away from the city a good deal during the several months following, and my recollection is generally that it is. I returned from time to time and looked over the matter. It finally came down to the understanding that we could do the work better and probably cheaper by doing most of it by the day's work, and employ our own men.

Q. Do you know a man by the name of E. J. Sweet?

A. I know him.

Q. Did he have anything to do with the completion of these houses, and, if so, what?

A. Mr. Sweet occupied a desk or office-room in our office, and during the period when I was absent from the city a large portion of the time I requested Mr.

Sweet to assist my son with such experience and help as he could give, and I think he did.

Q. I understand you, Mr. Smith, that during the greater portion of the time covered by him in the completion of these houses you were absent from the city; am I correct in that?

A. Yes.

Q. And that during that time, by mutual arrangement of yourself and Mr. Sweet, Mr. Sweet was to arrange with your son in the disbursement of this fund and the completion of these houses?

A. Not just that.

Q. What was it?

A. He was to assist my son by his advice and co-operation as my son should request.

Q. Is it not true, in fact, that Mr. Sweet not only advised your son in the matter of the completion of these houses, but also disbursed some portion of this fund?

I do not understand that so far as I have any knowledge or information that Mr. Sweet disbursed any portion of the money. He did assist by his advice and co-operation in the details of the work.

* * * * * * *

Q. How is it possible for you to know that if you were not in the city?

A. I was in the city more or less every week, but away during the major portion of the week.

* * * * * *

Page 442.—Q. Then this matter of competative bidding is something that you have no personal knowledge of?

A. I have. Question me to what extent my knowledge goes.

Q. You know a man by the name of Pumphey, carpenter and builder?

A. I do not remember him now.

Q. Remember a man by the name of George Thompson?

A. I do not think at this moment I could recollect the names of a single man, mechanic, employed on those buildings, except Gibbons.

* * * * * *

A. I said before I do not think I could remember the name of a single man employed on those buildings.

Frank B. Smith (examination-in-chief before auditor) testifies:

Page 443.—Q. What connection, if any, did the firm of which you are a member have with that property in the matter of its improvement, rental, and care, and how and when did the firm first take hold of the property for these purposes—first, as to the connection the firm had.

A. The houses were turned over to us in an unfinished condition for completion and sale or rental late in the fall, or early in the winter of '81, I guess it was.

Q. During the progress of the improvements after they were turned over to your firm, did you visit the premises?

A. I did—frequently.

Q. For what purpose?

A. For the purpose of inspecting the work in progress.

Q. Who kept the books of your firm?

A. I did.

Q. Who attended to the finances?

A. I did.

Q. Who received and paid out the money on account of these improvements?

A. I did.

Q. Who received or collected the rents?

A. I did; I, or clerks in our employ.

Q. Who paid out the moneys for the repairs and taxes?

A. I did—individually.

* * * * * *

Page 445.—Q. Where was the money paid for these items mentioned in these statements?

A. Partly on the ground, but principally in our office on Seventh street; the only payments made on the ground were wages paid for certain day work.

Q. Examine these statements or receipts and state whether you are able to say whether or not the persons

purporting to have received money for this work did actually work on this property and did the work mentioned?

A. They did, to the best of my knowledge and belief; in some instances I inspected the work personally, and in some I had it done by others in my office.

* * * * * *

Q. Who were the bricklayers employed?

A. I do not remember the names.

* * * * * *

Page 445—A. The carpentering work was done principally by day's work, under the supervision of James H. Gibbons, as foreman.

Q. Certain of those receipts there appear to be signed by a man named Thompson, do you recollect his working on the house?

A. I do not recollect. I could, probably, refresh my memory.

Q. Part of those receipts, Mr. Smith, for money paid out, appear to be witnessed by you; are you the witness, Frank B. Smith?

A. I am; it was done, as I recollect, in the case of parties who did not write their names. Where I had personal cognizance that the work was done there usually appear no check-marks; where I sent another to examine the work his indorsement usually appears, which I usually afterwards verified myself.

Q. In the matter of these improvements, did you have any assistance from one Edwin J. Sweet?

A. We did; yes.

Q. State what he did in the matter.

A. He was employed to assist in hunting up the various mechanics, and in some instances in examining the work for us.

* * * * * * *

Page 451. Q. You stated that certain commissions were paid for sales; to whom were they paid?

A. Paid to ourselves.

Q. Under what agreement, if any, and to whom?

A. The commission was the usual one, and was charged under no agreement that I know of.

* * * * * * *

Cross-examination:

Q. At the time of the commencement of which [the work] you were little more than 21 years old?

A. Yes, sir.

Page 480. Q. Do you now remember the amount of money that was disbursed by your firms in the completion of these houses?

A. Approximately, $25,000.

Q. Was or was not that fund substantially disbursed by yourself?

A. It was.

Q. Prior to the attempt to complete these houses what, if any, experience had you had as a builder?

A. None.

Q. This money was disbursed and these buildings completed largely under your supervision, I believe.

A. Under my supervision as to seeing that the money was paid to the right persons.

Q. Was not the work under your supervision?

A. I suppose it was in a general way.

Q. Have you not already said that you visited the work daily to see that it was properly constructed?

A. Yes, sir.

Q. Was that true?

A. That was true, but the amount of time spent there daily did not average very much.

Q. This was your first experience in building?

A. Yes, sir.

Q. Before commencing the improvements you saw the houses and saw their condition?

A. Yes, sir.

Q. Will you please state the condition of these houses, and each of them, at the time you took charge of them, commencing with the house located at the corner of Sixteenth and S streets, known as 1601 Sixteenth street, stating the condition of that house at the time you commenced the completion of it as fully as you can.

A. The house on the corner of Sixteenth and S streets, according to my recollection, was not commenced until possibly a few layers of the cellar, I think, was dug, and possibly a few layers of foundation.

Q. Have you any distinct recollection in relation to it, Mr. Smith?

A. Yes, sir.

Q. Will you please state what your distinct recollection is?

A. There was so little done, if any, that at the most a trifling expense was involved in changing the plans so that it was different in plans from the rest of the row—a larger and better one.

* * * * * * *

Q. Do you remember seeing the original plans?

A. I remember seeing what I suppose were the the original plans.

Q. Who had them?

A. The plans I refer to were in the office.

* * * * * * *

Q. Now, sir, was not all the walls of this building ready to receive the second floor joist at the time that you took possession of the house?

A. Not to my recollection, sir.

Q. Now, Mr. Smith, what was the condition of the house just named?

A. I do not remember.

Q. You have just testified about the house known as No. 1802 Sixteenth street.

A. I do not remember that house particularly. My general recollection is that the houses at that end of the row were all of them only slightly, if any, above the foundation, walls gradually tapering upwards to the north end of the row, where there was possibly one or two under roof. I have no very dissinct recollection of the particular house after the corner.

Q. How is it possible, Mr. Smith, that you visited this house daily to look after its progress, and see that the disbursements were properly made, if you do not remember anything definitely in relation to its condition at that time?

A. I do not know, sir.

Q. Do you not generally?

A. I do not except as I have stated.

Q. Do you know whether any of the floors were in it?

A. I have no recollection now.

Q. Do you know how high the walls were up?

A. Only as I have stated.

Q. Do you know whether the roof was on or not?

A. No, sir; it was not on.

Q. Now, sir, house No. 1804 Sixteenth Street—what was the condition of that house when you took it?

A. I have stated all I recollect as to the condition of the row. None of the houses at that end were under roof, while possibly some at the upper end 1820 and '22 were intervening houses that I recollect very well came downward.

Q. How many of those houses at this end were not under roof?

Page 182. A. I could not state more definitely than I have.

Q. You do not know how many houses were under roof?

A. No, sir.

Q. Do you know a man by the name of Covington?

A. I do not recollect such a man at the present time.

* * * * * * *

Q. I see the name of William H. Covington has been offered as a witness before the auditor in behalf of the defence in this case, who testified that he built four houses on Sixteenth and S Streets; can you with this description refresh your memory as to this man?

A. I can not.

Q. You remember, Mr. Smith, how many of these houses on Sixteenth Street were completed at the time you took charge of the row?

A. No, sir; none of them, as I recollect, were so entirely completed as to be occupied.

Q. Then your recollection is that none of them were occupied?

A. That is my recollection; I could probably refresh my memory by looking at the books to ascertain whether any rents were paid in originally.

* * * * * * *

Q. * * * Were these S Street houses plastered?

A. I do not recollect.

Q. I am pursuing this line of examination, Mr. Smith, because your father, the other member of the firm, had little or nothing to do with the completion of these houses; that it was all left to you; and conducted by you, and for the purpose of ascertaining the amount of work that was done on them by you, I would like you to say as specifically as you can the condition of the S Street houses.

A. I might remember more from reflection, but as I did not know that I was going to be examined on this branch of the subject I had not thought about it. And I have not thought about the condition they were in since '81 or '82.

Q. I find, sir, from one of your statements that in November, 1881, you collected rent from house No. 1605 S Street. What was the amount of the rent?

A. $10.

Q. Must not the houses have been completed at that time?

A. I am very sure that no house at that time was complete. I said a while ago that I could refresh my memory from the books, because I had a recollection that there was some small amount collected from one or two of the houses shortly after we took possession of them.

Q. The item I refer to is November 3, and then November 30—1630 S Street $20.45, and then No. 1605 Sixteenth Street—must not all of those houses at that time been completed?

A. I have no recollection of the circumstances now. My recollection, the only recollection I have on the subject, was that there were some families or family occupying a portion or one or two of the northern houses on Sixteenth Street, and my recollection of that is very indistinct.

Q. Do you remember a contractor and builder by the name of Pumphrey?

A. I know such a contractor and builder.

Q. Do you know how many of these S Street houses he finished?

A. No, sir; I have no recollection of him in connection with these houses.

Q. Did you or did you not know that he had built two of these S Street houses before you took possession of the property, and, perhaps, four of the Sixteenth Street houses?

A. I have no such recollection.

Q. Will you look at statement No. 5 in the upper portion of it marked by the Auditor, and tell us in whose handwriting the upper portion of it is?

A. It is in my handwriting, sir.

Q. Look there and see if you do not find there items of rent there—1603–'05 S Street, N. W.

A. I do, sir.

Q. What date is it, sir?

A. November, 30, 1881.

Q. Now, can you refresh your memory by seeing this entry in your own handwriting so as to enable you to testify whether or not all these houses were completed at that date or not?

A. The entries are in my handwriting and are no doubt correct, but I have no recollection of them whatever.

* * * * * * *

Page 483.—A. No, sir; the items being written in my handwriting I am positive are correct, but otherwise I have no recollection of them.

Q. The mere fact of your seeing them there and being in your handwriting is what makes you positive that they are correct?

A. Yes, sir.

Q. Now, how is it possible that you could have rented these houses and obtained rent from them if they were not completed?

A. I should judge from the amount of rent that the houses were not completed, as they were not amounts as complete houses commanded.

Q. But sufficiently complete to be occupied?

A. My only recollection, my only information is the paper you showed me.

Q. How was this work in the completion of these houses conducted or arranged, by contracts, or how?

A. Some of it was done by contract and some by day's work.

Q. What effort was made, if any, to get the working materials as cheap as possible?

A. In nearly every instance bids were secured for work; if these bids appeared to be reasonable the work was given to the lowest bidder, as I recollect, and when we had reason to suppose that the bids were too high it was done by day's work under the supervision of some foreman.

Q. Your father's name is Francis H. Smith?

A. Yes, sir.

Q. On page 484 of the testimony, he testifies as follows: "We made every effort in our power by competitive bids to obtain the materials and labor at the lowest possible price;" is that correct?

Mr. EDWARDS: (I object to that question.)

Q. In the matter of brickwork, did you take bids for brickwork?

A. As I recollect, the brickwork was all done by contract.

Q. Do you remember who competed in the bids?

A. I do not, sir.

Q. Do you remember any persons that did?

A. No, sir.

Q. Do you remember by whom the brickwork was done?

A. Not at this moment.

Q. Do you remember the amount of the brickwork that was done?

A. No, sir; I do not.

Q. It was all under your supervision?

A. Yes, sir.

Q. Do you remember the number of the brick used?

A. No, sir; I do not.

Q. Do you know from whom obtained?

A. I know that some brick were obtained from the Washington Brick Machine Company.

Q. Was that on a competitive bid?

A. I do not recollect.

Q. Did the competitive bids in relation to the brick-work include the mere laying of the brick or did it include the brick also?

A. I have no recollection.

Q. Were these bids in writing or oral?

A. Usually in writing; sometimes oral.

Q. Have you got them?

A. No, sir.

Q. Where are they?

A. I have no idea.

Q. They were left with you?

A. They were in our hands at one time, no doubt.

Q. You don't know what you did with them?

A. No, sir; I don't think they were forwarded to Massachusetts.

* * * * * * *

Page 485.—Q. Now, Mr. Smith, how was the carpentering work done on these houses—by competitive bidding or how?

A. No, sir; I think the carpentering work was done mainly by day's work.

Q. Did you superintend it?

A. To the extent of visiting it daily.

Q. Did you know how many men were employed?

A. No recollection.

Q. Did you know any of the men that were employed?

A. A great deal of the work was done under the supervision of a man named Gibbon or Gibbons.

Q. Do you know what amount of it was done under his supervision?

A. I do not.

Q. Under whose supervision was the rest of it done?

A. I have no recollection. I remember *his* name.

Q. How about the plastering?

A. Some of the plastering, I recollect, was done by a man named Dupont, under contract.

Q. What houses?

A. He did the plastering, as I recollect, of the corner. Outside of that I have no recollection.

Q. Who did the rest of the plastering?

A. I have no recollection.

Q. Did you or did you not undertake to get bids and complete the entire row?

A. I have no recollection.

Q. Do you remember when it was that you determined to take competitive bids for the completion of any portion of the work?

A. No, sir.

* * * * * *

Page 485.—Q. You, at that time, had a general knowledge of all these competitive bids, I believe?

A. Yes, sir.

Q. Have you a sufficient recollection now to state what would have been the entire cost of the completion of these houses under competitive bids?

A. No, sir.

* * * * * *

Q. At the time you took these houses to complete them, did you know or learn of existing contracts that Mr. Balloch had with the contractors to complete the houses?

A. I have no recollection.

Q. As I understand you, Mr. Smith, you cannot now state, from memory, the cost of the completion of any one of these houses?

A. No, sir.

* * * * * *

Q. Have you any recollection on the subject of any bids in relation to the completion of the S street houses?

A. No, sir.

Page 488.—Q. Then, Mr. Smith, to sum up your testimony, as I understand you, you cannot now testify, from memory, as to the cost of the completion of any one of these houses?

A. No, sir.

Q. Nor can you give the name of any competitive bidders in the completion of them?

A. Oh, yes; I remember, for instance, that a man named Qualls was a very persistent bidder for painting.

[The payments claimed to be made by Smith & Son

does not disclose any payment to Qualls, except for grading and laying some brick.]

* * * * * *

Q. Can you mention others?
A. I probably could upon reflection.
Q. But you do not think of any now?
A. No, sir.

No Wonder.

After reading this testimony of the Smiths can anybody wonder that $24,000 was expended where $8,000 would have been sufficient if prudently used by one who knew what he was doing?

This inexperienced youth might as well have been put to running the Treasury of the United States as finishing these houses, and the result was what might have been expected—a most prodigal and wasteful expenditure of money.

This was done by the company. Certainly Balloch's property can't be charged with this *waste*. The company must certainly bear the loss from the incompetency, recklessness, or dishonesty of its own agents.

The Defence of Defendants Joint.

The defence in this case by the defendants Hooper and the Company is a joint one. Both are represented by the same counsel, and Hooper in every way possible tried to swell the account against Balloch and himself in favor of the company, and the company has done its utmost to aid its dishonest agent to consummate his fraudulent purpose upon Balloch's property, of which it reaps the benefit.

All the way through the company and Hooper have acted in their dealings in these matters jointly and in concert, and Hooper has alone been known to Balloch as the responsible representative of the company.

Why Shouldn't the Company be Limited to Credit for $8,933.35?

If this accounting was limited to Balloch and Hooper there can be no doubt but that Hooper would be limited to credit as against Balloch on account of finishing the seventeen houses to the amount found by the Auditor as required to finish them on the 25th day of February, 1880, viz., $8,393.35. Why should not the company and Hooper jointly or separately be limited to the same amount?

Balloch made no separate agreement with the company. It voluntarily placed itself in Hooper's shoes, assumed his obligations, and undertook jointly with him to do this work. The money that was advanced by the company for that purpose was advanced solely on the security of Balloch's property.

ACCOUNT BETWEEN HOOPER AND THE COMPANY.

As we have seen, the company went on to deal with Hooper as the absolute owner of all Balloch's property, and the auditor was directed to state the account between Hooper and the company, which was done in Schedule "L." p. 311.

In this account Hooper is charged with the amount of all of Balloch's notes, including the notes for the Archer and Howard houses, save a note for $1,800 on one of the Archer houses. The reason for writing this is not given	$41,710 00
Interest to November 1, 1881, (from February 25, 1880, when Hooper took possession	3,779 30
To other disbursements for the completion of houses, payment of taxes, insurance,	

cost of repairs, payment of liens, sundry expenses, commissions to September 1, 1881, etc., as set forth in detail in Exhibit A, to deposition of M. V. B. Edgerly,		38,503 84
Making in all,		$83,993 14
And to this enormous sum is added interest to September 1, 1881,	$22,439 54	
Hooper is credited;		
By amounts received from sales, rents, &c., to September 1, 1886, as per Exhibit,		48,078 57
By interest to September 1, 1881,	6,256 74	
	$16,182 80	35,914 57
Add balance of interest to September 1, 1886,		16,182 80
Balance due company,		$52,097 37

The whole of this account is adopted bodily by the auditor from the statement of Edgerly, the president of the company, and acquiesced in by Hooper. See Edgerly's statement, Rec. p. 292, *et seq.*

The unsold property has greatly appreciated in value, and this account was doubtless intended to cover the increased value, so that the absorption of Balloch might be complete.

The court will see there is a wonderful difference between this statement of account, if Balloch's property is to be charged with it, and the statement of the account as I have presented it between Balloch and Hooper, and which I think is substantially correct.

This account of the company against Hooper is made

up of all Balloch's notes, not only in the three loans, but on the Archer and Howard houses, all the money that the company claimed to have expended for finishing the houses. All money paid for all taxes on all the properties after it came into the hands of Hooper as well as before. Commissions amounting to $ it does not appear upon what—sundries—we are left to guess what that means. Fees paid to attorneys amounting to $ and it does not appear for what service and interest upon everything made, all of which accrued after February 25, 1880.

The auditior allows it all just as presented by Mr. Edgerly, and Hooper accepts it all without question. Balloch would make no objection to this account as *against Hooper*, if he chose to have it so; but when it comes to charging it upon *his* property, he insists that it is a gross and outrageous injustice and wrong.

Hooper's Fraudulent Account Allowed by the Auditor.

The Audttor allowed the account of Hooper as he presented it in the face of his own testimony, showing that many of his credits were duplicated and in some instance triplicated, showing overcharges for credits amounting to $.

I subjoin Hooper's X. Ex. on this subject, that the court may see his dishonest dealings with Balloch, in which he was encouraged and aided by the company.

Hooper's Duplicate and Triplicate Charges.

Hooper on cross-examination before the Auditor, p. 233, Rec.:

"Q. As I understand your previous answer, this deduction by the company of $1,412 35 on April 15,

1880, included all interest due by Mr. Balloch to May 1, 1880, does it not?

"A. It includes all interest on these loans on the 16th and S street property, the Archer houses, and the Howard house.

"Q. Now, will you refer to the seventh page of your Exhibit No. 2, under the same date, to wit, April 15, 1880, and state what items under the head of interest make up the charge therein of $1,412.35, which is identical in date and amount with the deductions on the first page made by the company.

"A. I cannot tell.

"Q. If it is a disbursement made by yourself, why can you not tell?

"A. Because of the lapse of time since then.

Q. Is it not a duplicate of the deduction made on the first page by the company?

A. I cannot tell; it may be.

Q. What is your best judgment as you now examine them?

A. My guess would be that it is the same.

Q. Mr. Hooper, will you look at Exhibit No. 5 and state what that exhibit represents?

A. It represents the rent account of the houses conveyed to me by Balloch.

Q. It is what you termed a net statement or a statement of the net rents, is it not?

A. I should say not; I should say it was a gross statement.

Q. I see the second item in this account which purports to be rent of Howard house under date of May 1, 1880, interest $53.96. State whether or not that is not identical with one item included in the deduction of $1,412.35 by the company?

A. I cannot tell, but I presume not.

Q. Have you examined and compared the two?

A. I have not.

Q. Will you please examine and then state?

A. It may be.

Q. You see that Mr. Bond's statement of this deduction of $1,412.35 recites that $53.96 is interest on the Howard house, and your statement deducting the same amount under the same date also recites that it

is on account of the Howard house. Is it not certain that it is the same item?

A. I think it probably is.

Q. Then if that is included in the $1,412.35 deducted by the company, and in the $1,412.35 deducted by you on the seventh page of "Exhibit No. 2," and again deducted in your rent account as shown by "Exhibit No. 5," does not that make a triplicate charge of the same item against Mr. Balloch?

A. I should think it did.

Q. Now if you will look at your rent account, you will find a charge of interest under date of May 1, 1880, on account of the Archer house of $110.40. If you will refer to the deduction made by the company of the $1,412.35 under the same date and on account of the same house, you will find again the charge of $110.40; are not these items identical?

A. I should think they were.

Page 234—Q. Then if these items are charged in all three of these accounts, it would make a triplicate charge against Mr. Balloch, would it not?

A. Yes; I should think it would.

Q. And a duplicate charge as to the whole $1,412.35?

A. I think so.

* * * * * * *

Page 235—Q. On June 6, same date, in your account you will find a charge against Mr. Balloch of $12.50 for insurance. State whether that is not identical with a charge for insurance on the 7th, the following day.

A. It is not.

Q. State to what property the first charge relates.

A. I do not know.

Q. On the second?

A. I do not know.

Q. And yet you are unable to say they are not identical?

A. I do.

Q. On June 10, in the same account, you charge Mr. Balloch with the payment to J. D. Kitch of $702. State whether or not you paid that upon an order of Mr. Balloch, and how.

A. I think I took up a note of Balloch's to Kitch for $700, and $2 cost of protest.

Q. Did not Mr. Balloch give Kitch an order on you for $700, which order you failed to pay in money, but settled by your promissory note for thirty days, and the protest of $2, here charged, is a protest of your note?

A. I cannot remember.

Q. Will you look on your account under date of July 7, 1879, Mr. Hooper, and state what the charge of $20 entered as cash was for?

A. It was for cash.

Q. Is not that and the item in the line preceding a charge of $20 for the same thing?

A. It is not.

Q. You state that the figures on "Exhibit No. 4" made by yourself, and those which you claim were given to you by Mr. Terry, were correct, did you not?

A. I did.

Q. Look on that account, under date of July 7, and state whether or not you find it there.

A. I do not.

Q. Can you explain why it is omitted there and on your other account?

A. I cannot.

Q. This "Exhibit No. 4" is made from your original entries on slips of paper, is it not, so far as your figures go?

A. It is.

Q. And there is no way you can explain this difference in the two accounts in the matter of this item?

A. I do not know.

Q. Under the same date, July 7, 1879, you have an entry of interest $337.50; that is a charge for interest on the three of the Thirteenth Street houses?

A. My impression is that it is.

Q. Was not this interest due July 1, 1879?

A. I presume it was.

Q. Did not the company on October 17, 1879, deduct $578.26 interest due July 1, 1879, on these three houes and the other two, making the whole five Thirteenth street houses?

A. They appear to have.

Q. Then is not that a double charge against Mr. Ballock of this amount?

A. I rather think it was.

Q. Look at your account at July 22, 1879, and see if you do not find entered there two orders to F. H. Smith, one for $45 and one for $26.38, making a total of $71.38?

A. I do.

Q. Now look under date of August 14, just below, and see if you do not find entered to F. H. Smith the same sum of $71.38?

A. I do.

Q. Are not these charges identical?

A. I do not know.

Q. Do you not know that July 22, 1879, was the date when Mr. Balloch gave the orders, and August 14, 1879, the date when you paid them?

A. I do not.

Q. Do you know that that is not the fact?

A. I do not.

Q. Have you any way of determining whether I am correct about this or not?

A. I can ask Mr. Smith to see if Mr. Smith can show or I can look up my own papers.

Q. What was your habit in keeping your accounts with Mr. Balloch in the matter of charging an order he gave upon you in favor of some other person? At what time and when would you charge Mr. Balloch with that order?

A. I should suppose I charged it when I accepted it.

Q. Have you any distinct recollection as to what your habit and practice was?

A. No.

Q, Then, if you charged it when you accepted it what entry of records was made by you at the time you paid it?

A. I should not make any.

Q. Have you any recollection as to whether you did or did not make any?

A. I have not.

Q. Look on your account, August 9, 1879, at an entry of insurance, $20.00. State upon what property that insurance was placed?

A. If my memory is correct, that was for insurance which Robert A. Balloch had obtained from George W. Balloch and had not paid him for, and George W. Balloch asked me if I would consent to pay it, and I said if Robert A. Balloch consented I would, and I did. I do not know on what property it was.

Q. Look on the second line below, and see if you do not find an entry there of $20.00.

A. I do.

Q. State upon what property that was and whether or not it is identical with the entry to which you have just referred?

A. I do not know of what property it was. I do not think it is identical with the one just above.

Q. Look on your account a couple of lines below, under date of August 17, 1879, and explain a charge that you will find there against Mr. Balloch of $1,000.

A. I am not certain, but I think it was $1,000 paid to Mr. Albright.

Q. Why did you pay $1,000 to Mr. Albright, and what for?

A. On Mr. Balloch's notes, secured on these lots, because he held Mr. Balloch's notes secured on these lots.

Q. Do you mean that you paid a $1,000 note of Mr. Balloch's held by Mr. Albright?

A. I do not know.

Q. Have you such note in your possession now, or have you ever had; and, if so, will you produce it?

A. If I have it I will produce it.

Q. Will you look on your account, "Exhibit No. 4," and point out this charge of $1,000 against Mr. Balloch?

A. I do not see it.

Q. If you made such a payment ought it not to appear in that account?

A. I should rather think so.

Q. Did you ever at any time, Mr. Hooper, make a loan yourself to Mr. Albright of $1,000, taking collateral security therefor?

A. Never.

* * * * * *

Page 238.—Q. Now, Mr. Hooper, is it not in fact

true that on the 17th day of August, 1879, you loaned Mr. Albright $1,000, and took a promissory note of Robert A. Balloch's for $2,000, secured by deed of trust on real estate as collateral security therefor?

A. I do not think I did.

Q. How many transactions have you had with Mr. Albright in relation to this property?

A. I do not remember any other except the payment of $1,000 to him.

Q. And that was the note of Mr. Balloch's?

A. And that was on a note of Mr. Balloch's.

Q. Now, will you look in your account, under date of December 27, 1879, and see if you do not charge Mr. Balloch with a payment to Mr. Albright of $2,141.37, and, is not that the total of all money that you ever paid Mr. Albright on account of Mr. Balloch?

A. I find that charge of $2,141.37 as money paid to Mr. Albright. I cannot say that that is the only transaction I ever had with him, nor can I say it included that $1,000.

Q. Did you not state, in your answer preceding that just closed, that you had had but one transaction with Mr. Albright in relation to Mr. Balloch's matters?

A. I do not think I so stated.

* * * * * *

Page 241.—Q. Mr. Sturtevant is a conscientious, upright man; is he not?

A. So far as I know.

Q. Thoroughly truthful and reliable?

A. So far as I know.

Q. And, in all your communications with the company, you have always been frank, accurate, and truthful in all your dealings and communications with them, have you not?

A. I have meant to be.

Q. And you have been?

A. I have meant to be.

Q. The second half of these loans was due and payable when the houses were completed in accordance with the plans and specifications, was it not?

A. When the houses were completed and the title made good.

Q. Now, Mr. Hooper, under date of December 22, 1879, you wrote the company as follows: "I inclose Mr. Sturtevant's certificate that Mr. Balloch has completed the houses on which the company made him loans, according to statements made at the time of loan. You will please forward me $5,100 due on last loan, deducting therefrom the following sums with interest from November 1 to date of sending." That statement was correct, was it not?

A. I do not remember the statement.

Q. Have you any doubt that the statement then made by you in your final letter to the company was correct and true?

A. Yes; I have some doubt of it.

Q. Was this statement true or false?

A. Well, I cannot tell; but my opinion is that it was false.

Q. If it was false, must you not have known it when you wrote it?

A. I should think so.

Q. Did you, in any communication, and particularly in this communication, state facts that you knew to be false at the time of writing them to the defendant insurance company?

A. I do not recollect the state of facts at the time I wrote that letter. It had escaped my memory that I had written it.

Q. The extract from your letter of December 22, 1879, to the company, which I have read to you, distinctly states, does it not, that all houses on which the company had made loans prior to this date had been completed in accordance with Mr. Balloch's agreement, does it not?

A. It appears to. I have no recollection of the letter.

Q. That would include the houses upon which the $16,000 loan rested and the houses on which the $10,200 loan rested, would it not?

A. I presume it would.

It will thus be seen from his own admissions that Hooper made against Balloch several thousand dollars of false charges.

The Deed of February 25, 1880, Null and Void.

The court below declared the deed of February 25, 1880, from Balloch to Hooper to *be null and void*, and the defendants have prosecuted no appeal to this court.

It is then a settled fact in the case that the deed was *null and void*. The court must of course have found as between Balloch and Hooper the deed was *fraudulent* on the part of Hooper, and in that conclusion of the court the defendants below acquiesced.

Hooper's Trust to Company Void Also.

Hooper's trust deed of November 1, 1881, to Smith to secure $71,000 to the company, being based upon the Balloch deed, must necessarily be void also, unless the company *was an innocent purchaser without notice.*

Was the Company an Innocent Purchaser Without Notice?

Notice may be either *actual* or *constructive*, and the one is as effective as the other.

The court below decided that the company had neither *actual* nor *constructive* notice, and hence their trust deed was valid.

This is the vital question in the case.

Hooper was the Agent of the Company.

Hooper was the general agent of the company in this city, and it was through him that all the business between Balloch and the company was conducted (p. 24, Rec.). The president of the company was asked:

"X-Int. 19. Is it not a fact that the entire business

transactions in relation to the loans made by the defendant company to the plaintiff, Balloch, was made and conducted by them through William R. Hooper, their agent?

"A. Yes."

In all the communications from the company to Hooper found in the record, he is addressed as agent. See Rec., pp. 30, 31, 32, 35. See Hooper Tes., pp. 199, 216, 217.

President Bond on page 19 says:

"I do not remember that I ever saw the plaintiff, Balloch, and I have no knowledge of him except in connection with business transastions had with him through the defendant Hooper.

All negotiations for the loans by Balloch were made through Hooper, Balloch never in a single instance had any communication with the company save through Hooper.

The notes and deeds of trust were all delivered to Hooper. The agreement as to how the money was to be paid was made with Hooper. The drafts payable to Balloch's order were all sent to Hooper, save in perhaps two instances, when the drafts were payable directly to Hooper.

The company trusted Hooper to pay over the money on the loans to Balloch in his discretion.

In all the business between Balloch and the company he knew only Hooper who was to him, *the company.*

Balloch made the Deed to Hooper as Agent of the Company.

Hence, Balloch in his testimony, insists that he made his agreement to convey with the company and

says he conveyed to the company (See his testimony)

There can be no doubt but that Balloch so understood it.

It is hardly possible that after his treatment by Hooper in holding back his money and stopping his work, and doling it out to him in dribs when he did give it to him at all, that he would have been willing to deal with him as an individual.

Nor is it probable that he would have trusted Hooper with an absolute deed in his own name for large properties that he conveyed to him, if he had not supposed he was dealing with him as the representative of the company.

Hooper was Trustee for Both Balloch and the Company.

Hooper was the sole trustee and represented both the company and Balloch in all the deeds of trust holding the legal title as such trustee. He thus stood in the relation of trustee and agent to both parties.

The company knew that Balloch had not paid any of his notes and that its trusts were still upon the property to secure them.

There was no clause in the deed from Balloch to Hooper making the conveyance subject to the incumbrances.

They knew that the deed contained property not covered by the trusts, from which the court below inferred some agreement not expressed in the deed, and the company should have made the same inference.

The company knew from the trust relation which Hooper sustained to Balloch that the deed was *subject to be set aside at Balloch's option.*

It knew that Balloch was living in Washington, and if it wished to have the true state in the case it could

be gotten from Balloch if it had not already been obtained from Hooper.

Constructive Notice.

From all these facts and circumstances the company was chargable with notice of the fraudulent character of Hooper's deed.

The Evidence on Behalf of the Company Shows That it Had Actual Notice.

The company in its answer p. 10, Rec., says: "This defendant had no knowledge of the conveyance to the defendant Hooper, of the property as described and alleged in the ninth paragraph *until a long time thereafter, to wit, until about the 1st day of October*, 1881."

Testimony of President Bond.

E. W. Bond, president of the company, p. 20, Rec., in his examination-in-chief, said:

"That the company was first informed or notified of the conveyance to Hooper by Balloch, on or *about October 9*, 1881, by Mr. F. Smith who *called on me at Mr. Hooper's request, in order to confer with me concerning certain matters between the plaintiff and Hooper, and between Hooper and the defendant company.*"

On the same page he says: "The notes mentioned in this interrogatory (Balloch's notes) were settled and cancelled in consideration of the execution and delivery to us of a certain promissory note of the defendant Hooper to said company, dated November 1, 1881, and secured by deed of trust from him to Frank H. Smith, bearing over date with said note." "The total amount due from the complainant to said company at

the time of the cancellation of said notes, and at the time said Hooper executed his note to the company and at the time said trust to secure the same was *the sum of* $38,496.00."

It will be observed that Mr. Bond denies simply *actual knowledge of the Balloch deed until October*, 1881. *He does not deny knowledge of the nature of the transaction between Hooper and Balloch before he cancelled Balloch's notes and caused the trusts to be be released, and before he took the note and trust deed from Hooper upon all Balloch's property for* $71,000.

He says that Smith "called upon me *at the request of Hooper* to confer with me concerning certain matters between the *plaintiff and Hooper* and between *Hooper* and the *defendant company*."

What was the matter between Balloch and Hooper about which Hooper wanted to confer through his agent Smith?

He had no other matters than these with which we are dealing. He was probably ashamed to face the company and confess his faithless and fraudulent dealings with both it and Balloch, and so he sends his friend Smith to gently break it to the company and by its aid to complete the spoiliation of Balloch's property.

Then Smith was to confer upon matters between *Hooper* and the *company*.

What the Company Must have Learned.

Now, didn't it learn that Hooper had paid nothing for all Balloch's property, and that he was getting not only all the property covered by the company trusts, but the six lots not embraced in them?

Didn't it know that Hooper was trustee both for Balloch and itself in all the deeds of trust, and in all

the dealings between Balloch and the company.

The company now, at all events, if it had not in fact known it before learned that for eighteen months Hooper had been dealing with Balloch's property, and their security as his own, and had been concealing it from them.

The Company Learned of Hooper's Deceptions and Frauds.

The president now learned, if he had not known it before, that when Mr. Hooper wrote him on the 22nd. day of December, 1879: "I enclose Mr. Sturtevant's certificate that Mr. Balloch has completed the houses on which the company made him loans, according to the agreement made at the time of the loan. You will please forward me $5,100 due on last loan, deducting therefrom the following sums with interest from November 1, to date of sending." See rec. p. 242.

HOOPER was asked on cross-examination.

"Q. That statement was correct, was it not?

"A. I do not remember the statement."

"Q. Have you any doubt that the statement then made by you in your final letter to the company was correct and true?

"A. Yes; *I have some doubt of it.*

"Q. Was this statement true or false?

"A. Well, I cannot tell, *but my opinion is that it was false.*

"Q. If it was false must you have known it when you wrote it?

"A. *I should think so.*

* * * * * * *

"Q. The extract from your letter of December 22, 1879, to the company, which I have read to you, distinctly states, does it not, that all the houses on which

the company had made loans prior to this date *had been completed in accordance with Balloch's agreement, does it not?*

"A. *It appears to.* I have no recollection of the letter.

"Q. That would include the houses upon which the $16,000 loan rested, and the houses on which the $10,200.00 loan rested, would it not?

"A. *I presume it would.*

"Q. What was the amount of the last payment due from the company on account of these three Balloch loans, and when was it due Mr. Balloch?

"A. The last payment and deductions amounted to $1,500. I presume it to have been due that day.

"Q. Was it due when the corner house was finished?

"A. I cannot tell.

"Q. On the 14th of April, 1880, you wrote to Mr. E. W. Bond a letter in which I find the following sentence: '$1,500 *is now due Mr. Balloch on his house on which deed and note have been sent you. Please send him that amount less interest due from him on sundry notes due May* 1; *credit him with interest* from date of sending money to May 1, and deduct all interest then due.' Does not this paragraph in your letter relate to the *last payment due Mr. Balloch on account of these loans?*

"A. I think it does.

"Q. Then I understand from this letter that Mr. Balloch had completed all of the houses covered by the three loans in accordance with his agreement with yourself and the defendant company. *Does it not so state?*

"A. *It appears to.*"

The president now learned, if he had not found it out before, that when Hooper wrote to him on the 22d of December, 1879, that the houses upon which the two first loans had been made were all finished, and got Sturtevant to certify to a lie, and when he wrote on the 14th of April, 1880, that Balloch had fin-

ished the last of the houses upon which the third loan was made, that Hooper had then held all the property by deed from Balloch since February 25th preceding, that thirteen of the houses were unfinished and that he wanted the money for himself and not for Balloch. *He then found out, if he did not know before, that these letters were false, and written for the purpose of deceiving the company for his own personal advantage, and that he had not only written a lie but he had procured Sturtevant to certify to a lie for the purpose of getting from the company money for himself.*

He learned now, if he didn't know it before, that his agent was *both false and dishonest.*

No wonder that Hooper didn't want to face the company and sent his friend Smith to placate it.

The Company must have Learned All the Facts.

It is stretching credulity too far to suppose that President Bond didn't have a full understanding as to Hooper's transactions with Balloch before he ventured to cancel his notes and release all the trusts and take from Hooper the $71,000 trust.

But whether he did or not, it was his duty to have known, and he was inexcusably negligent if he did not, *and is chargeable with knowledge.*

A most Significant Fact Showing Knowledge.

The company's deed of trust from Hooper was executed November 1, 1881, but it was not put on record until January 27, 1882. The deed of release to Balloch was executed at the same time, but was not put on record until March 21, 1882. (See Rec., p. 195.)

In this District deeds do not take effect until left for record. (See Rev. Stats., Dist. Col., Sec. .)

If the company believed this was a straightforward and honest transaction, *why did it not at once place its deed of trust upon record? And why did not Hooper at once place on record Balloch's deed of release? Or rather, why didn't the company return to Balloch his cancelled notes and give to him his deed of release?*

Why the Withholding from the Records, where they Belonged, these Important Deeds if they were Honest and would bear the Light of Day?

If the company was dealing honestly didn't it know that these notes if they were paid by another transaction belonged to Balloch and not to Hooper, and it was its business to see that he had both the notes and deeds of release. The company well knew that Hooper had not paid them.

A Conspiracy.

The fact is that when Bond at the solicitation of Smith agreed to condone Hooper's frauds upon the company. He didn't stop there, but he entered into a *conspiracy* with Hooper to devour poor simple-minded Balloch.

The fact is they were feeling their way. They started up the buildings and waited to see whether Balloch would appear to make any claim before they ventured to put this stupendous fraud on record where he might see it.

The buildings went on and Balloch did not appear because his contract was to wait until the buildings were finished and sold, and, presuming that he would make no claim, they finally *ventured out of hiding.*

The company not only had notice, but was *saturated with knowledge, and guilty knowledge at that.*

Authorities.

As we have seen the decree of the Special Term declared Hooper's deed of February 25, 1880, *null and void*, and this decree was affirmed by the General Term from which Hooper and the company have not prosecuted any appeal, so *that* is a *concluded question* and needs neither argument or authority to sustain it. But as bearing upon the question of *notice to the company*, it may not be amiss to cite some authorities showing what the established law is as to dealings between trustee and *cestui que trust*—the relation which existed between Balloch and Hooper at the time of the deed of February 25, 1880, which was well known to the company.

Lewin on Trusts, sec. 486:

"The rule is now universal, that however fair the transaction the *cestui que trust* is at liberty to set aside the sale and take back the property. If a trustee were permitted to buy in an honest case, he might buy in a case having that appearance, but which from the infirmity of human testimony, might be grossly otherwise."

Ibid, sec. 487:

"When it is said that a trustee for sale may not purchase the trust, the meaning must be understood to be that the trustee may not purchase *from himself*, that is, he cannot perform the two functions of seller and buyer, for there is no rule that a trustee whether for sale or otherwise may not purchase from his *cestui que trust*. Hence, while a purchase by a trustee conducting the sale, either personally or by his agent, cannot stand, a *fair purchase from a cestui que trust* of the interest of the latter in the trust may stand, if the trustee can show that the fullest information and every advantage were given to the *cestui que trust*. How-

ever, a purchase by a trustee from the *cestui que trust* is at all times a transaction of great *nicety, and one which the courts will watch with the utmost jealously, and will set aside if the consideration was insufficient; and the exception, it is said, runs so near the verge of the rule, that it might as well have been included within it.*"

Before any dealing with the cestui qui trust the relation between the trust and cestui que trust must be actually or virtually dissolved.

"The trustee may, if he pleases, retire from the office and qualify himself for becoming a purchaser by divesting himself of that character, or if he retains the situation the parties must be put so much at arms length that they agree to stand in the adverse situation of vender and purchaser, the *cestui que trust* distinctly and fully understanding that he is selling to the trustee, and consenting to waive all objections upon that ground, and the trustee fairly and honestly discharging all the necessary particulars of the estate, and not attempting a furtive advantage to himself by reason of any private information."

Perry on Trusts, Sec. 195.

"The trustee is in such a position of confidence and influence over the *cestui qui trust*, that the contract or bargain will either be void or he will be a constructive trustee at the election of the *cestui que trust*, unless the trustee can show that the contract was entirely fair and advantageous to the *cestui que trust.*"

The Presumption is Against the Transaction.

"If the *cestui que trust* confess *judgment, or make a deed to the trustee. the burden is on the latter to*

repel the intendment of law that there was undue influence."

For this the editor cites not less than fifty cases, including the Supreme Court of the United States in Michord *vs.* Girod, *et al.*, 4 How., 503, in which the doctrine of the text is carefully considered and the authorities reviewed.

In view of the well settled doctrine that the trustee could not take a deed from the *cestui que trust* except at the risk of having it set aside at the option of the *cestui que trust*, and which doctrine the company was bound to know, how can it derive any better title through the deed of February 25, 1880, than Hooper himself took?

The law of Notice.

"*Actual* notice embraces all degrees and grades of evidence from the most direct and positive proof to the slightest circumstances from which a jury would be warranted in inferring notice. It is a mere question of fact and is open to every species of legitimate evidence which may tend to strengthen or impair the conclusion.

Williamson *vs.* Brown, 15 N. Y., 354.

"Constructive notice on the other hand is a legal inference from established facts, and like other legal presumptions does not admit of dispute, *Id.*

Birdsell *vs.* Fussell, 29 N. Y., 220, 250; Rogers *vs.* Jones, 8 N. H., 264; Hewett *vs.* Lawrence, 9 Eng. Law, 2 Eq., 35, S. C., 9 Hare., 449; Davis *vs.* Biglow, 62 Penn. St., 242; 1 American Reps., 393."

3 Wait Act. and Def., 449.

The Company was not bound to affirm Hooper's deed, but might have repudiated it.

As the taking of the deed of February 25th was outside of the authority of Hooper as agent, the company would not have been bound to affirm it, but might have repudiated it, yet it might elect to affirm it, and did, *and in so doing it put itself in Hooper's shoes*, and the court below says that as between Balloch and Hooper, the deed was intended, but as a security for the company's debt.

As the company affirmed Hooper's dealing with Balloch with the trust property, it is chargeable with knowledge of all that Hooper, their agent, knew and did.

"To constitute constructive notice, it is not necessary that it should be brought home to the party interested himself. Notice to an agent is constructive notice to the principal, *and it would not in the least avail the latter to show that the agent had neglected to to communicate the fact.*"

3 Wait, Act. and Def., p. 451, citing.
Brown *vs.* Williamson, 15 N. Y., 354; Barret *vs.* Savage, L. R., 2 Eq., 134; Miller *vs.* Fraley, 21 Ark., 22; Worden *vs.* Williams, 24 Ill., 67; Jones *vs.* Barnford, 21 Iowa, 217; Rolland *vs.* Hart, 6 Ch., App. Cas., 678.

The Houses Injured by Standing Before the Company Undertook to Finish Them.

The Smiths, father and son, testified that the unfinished houses were injured by the weather and otherwise, while standing unfinished and unoccupied before the company undertook to finish them, and that the cost of finishing was thereby increased, and

this is to some extent doubtless true. But that was no fault of Balloch's, and he is in no way responsible for it, nor chargable with it. Hooper was as we have seen to finish the houses with reasonable diligence, and if the cost was increased by his failure to perform his agreement it is his loss, and the loss of the company who stepped in to help him out.

The Company Was a Mere Volunteer and Must Take the Consequences.

It was under no obligation to assume Hooper's undertaking to finish the houses. Its notes and deeds of trust were all in tact and the property was abundant to pay them, and upon the discovery of Hooper's faithlessness it might have proceeded to sell the property on its deeds of trust to pay its debt.

But with full knowledge that Hooper's deed was fraudulent and void, or at the *very best voidable at the option of Balloch*, it elected to treat Hooper as the rightful owner of all Ballach's property, and to deal with him accordingly.

The Company had Knowledge of Hooper's Deed on the 27th Day of February, 1880.

The president of the company testifies that the company had no knowledge of the deed from Balloch to Hooper until informed by Smith about October 9th, 1881. But the company is chargeable with knowledge so soon as the deed was left in the office of register deeds, for record, which was on the 27th day of February, 1880.

This notice although constructive is as absolute and binding as actual notice.

"A recorded deed is an instance of constructive

notice. It is of no consequence whether the second purchaser had actual notice of the prior deed or not. He is bound to take and is presumed to have the requisite notice."

3 Wait Acts and Def. 450 citing: Williamson *vs.* Brown 15 New York, 354.
Christmas *vs.* Mitchell, 3 Sced., 535.
Wormley *vs.* Wormley, 8 W. Wheat., 421.

So that for all purposes the company knew of Balloch's deed to Hooper, the very day after it was executed. The deed although dated the 25th, was not acknowledged until the 26th, and recorded 27th December, 1880. See Rec., p. 96.

The Company occupies no better Position than Hooper.

It took with full notice of Hooper's relation to Balloch. It knew that it still held Balloch's notes and the unreleased deeds of trust to secure them. It knew that Hooper was the trustee for both itself and Balloch, and that he had no right to deal with Balloch for the trust property. It was not necessary to protect the company for it to take Hooper's place.

The company, with full knowledged, put itself in Hooper's shoes, and is accountable to the same extent that he is, and its accountability goes back to the inception of the fraudulent transaction.

The taking of the deed of trust by the company from Hooper upon Balloch's property to secure his note for $71,000 was a rank and stupendous fraud upon Balloch, which no court of equity should permit to stand.

In Oliver *vs.* Piatt, 3 How., at 401, Judge Story said:

"It is a clearly established principle in that [equity]

jurisdiction that whenever the trnstee has been guilty of a breach of trust, and *has transferred the property by sale or otherwise* to any third person, the *cestui que trust* has the full right to follow such property into the hands of such third person unless he stands in the predicament of a bona fide purchaser for a valuable consideration without notice."

Lewin Law of Trusts, pp. 728-729:

"If the alienee be a volunteer * * * the estate may be followed into his hands, whether he had notice of the trust or not; for if he had no notice the court will imply it against him where he paid no consideration. But if the alienee be a purchaser of the estate at its full value, then if he takes with notice of the trust, whether the notice be actual or constructive, he is bound *to the same extent and in the same manner as the person of whom he purchased, even though the conveyance was made to him by fine with nonclaim, for knowing another's rights to the property he throws away his money voluntarily and of his own free will*; and the rule applies not only to the case of a trust property so-called, but to a purchaser with notice of any equitable incumbrance." Citing many English cases.

Hill on Trusts, at p. 164:

"It may be laid down, as a general rule, that a purchaser from a trustee with notice, though for a valuable consideration *a fortiori*, a volunteer taking with notice, is in equity bound by the trust *to the same extent and in the same manner as the person from whom he purchased*, and this will be the case whether it be an express trust or a constructive trust."

Hill recites many authorities, among them—

Oliver *vs.* Piatt, 3 How., at 409.
Wormley *vs.* Wormley, 8 Wheat., 421.
Perry on Trusts, sec. 217.

"It is a universal rule that if a man purchases property of a trustee, with notice of the trust, he shall be charged *with the same trust in respect to the property as the trustee from whom he purchased*, and even if he paid a valuable consideration, with notice of the equitable rights of a third person, he shall hold the property subject to the equitable rights of such person."

"Such purchases from trustees, whether for value or not, *are fraudulent*, and equity will follow the property and fasten the oirginal trust upon it for the security of the *cestui que trust* or other person holding an equitable interest. The rule applies not only to express trusts or those expressly declared in written instruments, but applies to constructive trusts or those that arise from fraud. Thus, if a party procure a conveyance of property from another by fraud, he shall be held to be a constructive trustee; and, if he sells such property to a third person, who has full knowledge or notice of the fraud, such third person will be equally held as a trustee"—citing many authorities.

Caldwell *vs.* Carrington, 9 Pet., 86.

In Murray *vs.* Ballou, 1 John. Chy., at 575, Chancellor Kent says:

"The question of the notice of the trust is also material, inasmuch as the purchaser's knowledge goes to lessen or destroy the hardship, if any there should be, in the application of the maxim of *caveat emptor*. If every man purchases at his peril and is bound to look to the title and the competency of the seller the duty is the stronger if he knowingly purchases of one acting as agent or trustee for others, for then he is bound to look into the validity and circumstances of the authority and to call for an explanation of the nature and existing circumstances of the trust."

Said Lord Hardwick, in Mead *vs.* Lord Orrevey, 3 Atk., at 238:

"Now to be sure, notice in a court of equity is ex-

tremely material; for if a person will purchase with notice of another's rights, *his giving a consideration will not avail him, for he throws away his money voluntarily and of his own free will.*"

Phayre *vs.* Perce, 3 Dow., at 129.
Adair *vs.* Shaw, 1 Sch. & Lef., at 262.
Joy *vs.* Campbell, Ibid., at 345.
Willoughby *vs.* Willoughby, 1 Dunf. & E., at 771.
Heath *vs.* Crealock, 18 L. R. E., 215.

Under the doctrine of these authorities and many more which might be cited the defendant company, by joining Hooper in the perpetration of a fraud upon the plaintiff, has no rights beyond those of the fraudulent trustee in the accounting, and the credit for the improvements must, as to both, be limited to the amount found by the auditor to be necessary to complete the buildings when they came into Hooper's hands.

Conclusion.

In conclusion I think I have demonstrated that the decree below was wholly erroneous and should be reversed save as to the part which declared the deed of Balloch to Hooper of Feb. 25, 1880, to be *null and void* as between the parties to it. And that should be so altered as to make it void as to all the world.

I take the liberty of suggesting that the case should be remandid with the direction to cause the account to be restated. In which accounting the complainants below should be charged with what he in fact received from the company on account of the three loans made to him by the company, and with what was paid by either Hooper or the company on account of liens or encumbrances upon the property conveyed by deed of trust to secure said loans existing prior to February

25, 1880, and for what it would have required to finish the houses on the 25th day of Feb., 1880, as found by the auditor. And for all taxes, insurance and necessary repairs with interest at 6 per cent. And to be credited with all the rents of the houses received by either of the defendants. And with the amounts received by either of the defendants from the sales of houses.

In this accounting the Archer and the Howard houses and the amounts deducted by the company as payments and the notes and deeds of trust given by Balloch on account thereof, to be wholly elimenated from the account, and that it be limited to the three loans and the finishing of the houses and discharging the encumbrances thereon placed there by Balloch. And that whatever balance may be found to be due the company, if any, it have a lien upon such of the houses and lots covered by the three deeds of trust given to secure the loans as remain unsold. And that as to the six Swan Street lots Balloch be restored to his former estate therein free from any lien of either of the defendants. And the deed of trust of Nov. 1, 1881, of Hooper to Frank Smith, to secure the defendant company $71,000.00 should be declared to be fraudulent and decreed to be null and void.

Respectfully submitted,

S. S. HENKLE,

Counsel for Appellant.

Office Supreme Court U. S.
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JAMES H. McKENNEY,
CLERK.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1892.

NO. 21.

ROBERT A. BALLOCH, *Appellant,*

vs.

FRANKLIN H. HOOPER, Executor of the Will of William R. Hooper, deceased, and the MASSACHUSETTS MUTUAL FIRE INSURANCE COMPANY, *Appellees.*

BRIEF IN BEHALF OF APPELLEES.

JAMES S. EDWARDS,
JOB BARNARD,
Solicitors for Appellees.

In the Supreme Court of the United States.

OCTOBER TERM, 1892.

ROBERT A. BALLOCH, APPELLANT,

vs.

FRANKLIN H. HOOPER, EXECUTOR OF THE WILL OF WILLIAM R. HOOPER, DECEASED, AND THE MASSACHUSETTS MUTUAL FIRE INSURANCE COMPANY, APPELLEES.

No. 21.

Brief in Behalf of Appellees.

STATEMENT.

Robert A. Balloch, the appellant, about Nov. 1st, 1878, purchased from one Adams certain vacant lots in square 177, at the northwest corner of S. and 16th streets, N. W., in Washington City, D. C., for the sum of $14,200, assuming the payment of a large amount of unpaid taxes thereon, aggregating some $3,500 in round numbers. Nothing was paid by him on this purchase, and he gave interest-bearing promissory notes, secured by a deed of trust on the whole property, for the purchase money. He made a subdivision of a portion of this property, which was recorded June 3, 1879, into 14 lots on the west side of 16th street, 7 lots (and a small strip about 5 feet wide) on the south side of "Swan" street, and 6 lots on the north side of S street. The lots fronting on "Swan" street contain 9,875 square feet of ground, and are unimproved.

After his purchase of this property from Adams, and prior to June 4th, 1879, the appellant undertook the construction of certain houses thereon, 20 in all—14 on 16th and 6 on S street.

On the last named date he obtained a loan from the defendant Insurance Co. of $16,000, for which he gave his 8 promissory notes for $2,000 each, all payable, with interest until paid at 8 per cent., to the order of the company; and, as security therefor, executed 8 deeds of trust to William R. Hooper on 8 of the lots fronting on 16th street, numbers from 92 to 99, both inclusive. When this loan was made no portion of the taxes, or of the purchase money due Adams had been paid.

On October 11, 1879, the appellant obtained another loan from this company, of $10,200, for which he gave 6 notes for $1,700 each, payable to the order of the company, bearing the same rate of interest; and, to secure the same, executed 6 deeds of trust to Mr. Hooper on the 6 lots fronting on S street, Nos. 18 to 23, inclusive. Five thousand two hundred dollars of the purchase money due to Adams had been paid when this loan was made, but no portion of the taxes.

On the 17th of February, 1880, he obtained another loan of $9,000 from this company, for which he gave 4 other notes, 3 for $2,000 each and 1 for $3,000, payable in the same manner and bearing the same interest as the others; and, as security therefor, he executed 4 other trust deeds to Mr. Hooper on four of the remaining lots fronting on 16th street, Nos. 89, 90, 91 and 100. Up to the time of this loan Adams had been paid $9,200, but all of the taxes due when the complainant purchased the property, and accruing since, remained unpaid.

These loans were negotiated through the said Hooper (who was the general agent of the insurance company for this District in the business of placing life insurance and collecting premiums) and one Seth A. Terry, acting for and in behalf of said Balloch, and with his assurance that the title to the property intended and offered as security therefor, was good and unencumbered at the time the loans were made.

As a condition for making these loans, Balloch agreed to purchase from the company, at the cost thereof to the

latter, certain other houses, with the understanding and agreement that the cash payments to be made should be deducted from the several loans before mentioned, and be retained by the company; and for the balance of the purchase-money therefor, he was to give his promissory notes to the order of the company, to be secured by deeds of trust to Mr. Hooper. These purchases were duly consummated, and the agreements in respect thereof, as stated, fully carried out when the several loans on the 16th and S street property were made.

Balloch, at the dates of the loans on the 16th and S street property, was also indebted to the company for other loans made by it to him, and secured by certain deeds of trust on property on the corner of Q and 13th streets N. W. By previous agreement the interest on this last mentioned loan, due when the 16th and S street loans were severally made and also the accuring interest on the latter, was deducted and retained by the company from the three several loans on what is known as the 16th and S street property.

The company thus deducted and retained:

For cash payments on houses sold to the complainant:		
July 9, 1879 - - -	$800 00	
Oct. 17, 1879 - - -	416 66	
Feb. 17, 1880 - - -	750 00	
		$1,966 66
For interest:		
June 4, 1879 - - -	$581 50	
Oct. 17, 1879 - - -	57[illegible] 26	
Dec. 24, 1879 - - -	646 42	
Apl. 15, 1880 - - -	1,412 35	
		3,218 53
		$5,185 19

Forwarding drafts as follows:

June 4, 1879 - - -	$7,418 50	
July 9, 1879 - - -	7,200 00	
Oct. 17, 1879 - - -	4,105 08	
Dec. 24, 1879 - - -	4,453 58	
Feb. 17, 1880 - - -	6,750 00	
Apl. 15, 1880 - - -	87 65	
		30,014 81

Making the aggregate of the three loans, $35,200 00

By mutual arrangement between him and Balloch, Hooper was made the custodian of the money, forwarded by drafts as stated, to be by him disbursed in part, at certain stages of the work on the buildings in course of construction on the lots held as security for the loans, and the balance when the buildings were completed. The proceeds of these drafts, so held by Hooper, were deposited by him in a bank in this city in his individual name.

Terry, the complainant's agent and representative, was committed to the District jail on the 22d or 23d of January, 1880, remaining there until about the 31st of July in the same year, and during that time paid no attention to these matters.

By deed dated Feby. 25, 1880 (acknowledged before G. W. Balloch, notary public, on the 26th, and recorded on the 27th of the same month), the said Robt. A. Balloch conveyed to said Hooper all the property purchased, as stated, from Adams (except the two most northern lots fronting on 16th street, Nos. 87 and 88); also, all of the property purchased from the company when the three loans on the 16th and S street property were severally made. The consideration mentioned in this deed is "the sum of five thousand dollars previously advanced, and one dollar in lawful money of the United States." This deed is absolute in form, and conveys all of the grantor's interest, claim and

estate, both legal and equitable, in and to all of the property mentioned therein to Mr. Hooper. (Record, p. 189.)

The company had no knowledge or information concerning this deed, or of the change of the title to the property on which it held the trusts to secure said indebtedness to it, until October, 1881. (R., pp. 20 and 299.)

At the time of the execution and delivery of this deed, the houses then in course of construction on the 16th and S street lots were in an incomplete condition. All of the taxes due when the appellant bought the ground from Adams, and accruing thereon, and also on that which he afterwards purchased from the company, as stated, were in arrears and unpaid, and $5,000 and upwards was still due Adams on the original purchase money. No portion of the principal of said notes to the company had been paid, and the property included in said deed was further burdened with mechanics' liens, and other trust deeds placed thereon by Balloch, and by a judgment recovered against him.

On the execution and delivery of this deed to Hooper, the latter took possession of all the property thereby conveyed to him, and undertook the completion of the houses on the 16th and S street lots; but finding the money at his disposal on account of the said loans, and his own means, were insufficient for the purpose, and to pay the existing liens, taxes and icumbrances thereon, he concluded to seek financial assistance and aid from the company; and accordingly, in or about the month of October, 1881, informed the company of the transfer to him of February 25, 1880, of the incomplete condition of the houses, and of the existing state of affairs concerning the property, and the company's interests; whereupon an agreement was made between him and the company, whereby the latter agreed to advance to him sufficient money to complete the houses and finish the improvements on the property, to pay off the incumbrances, and to cancel Balloch's notes and indebtedness to it, and release the trusts given to secure it, in consideration of Mr. Hooper giving the company his note

sufficient in amount to cover the said debt, and the contemplated advances for the purposes stated, secured by deed of trust on the property. This was done, Hooper giving his note to the order of the company, dated Nov. 1, 1881, for $71,000, and a trust deed of even date (recorded in the Liber No. 992, folio 332) was executed by him to Mr. Frank H. Smith to secure it. Thereupon, the company cancelled the Balloch notes and indebtedness, and released the trusts he had previously given. (R., p. 195.)

It was also agreed between Mr. Hooper and the company, that Mr. Smith should, (under an express contract as to his compensation,) have charge of the property for the purposes of completion, rental and sale; should receive the moneys to be advanced by the company, make all disbursements, and should, from time to time, transmit all revenues from rental or sales to the company, or to Hooper for transmissal by the latter to the company, in extinguishment of the company's claims on the property.

The appellant did not exercise, or attempt to exercise, any acts of ownership over, or have anything to do with, the property included in his deed to Hooper, after its execution and delivery, or assert any claims to the property, or any interest whatever in it, until December 7, 1882, when he instituted this suit, whereby he undertook to charge *both Hooper and the company as trustees.* See paragraph 8 of bill. (R., p. 4.)

The relief sought is in substance as follows:

1. That the defendants be enjoined from selling or disposing of the houses not sold or disposed of, and from collecting rents and profits of the property.
2. That a receiver be appointed to take possession of the unsold property, and to collect rents.
3. That the defendants be required to account as such alleged trustees. And
4. For a decree against defendants for the amount found due complainant.

The cause came on for hearing on the pleadings and evidence at a special term in equity, and Justice Hagner, then holding the court, on the 21st of April, 1885, passed an order referring the cause to the Auditor, with authority to state such accounts as were therein specifically enumerated, from the testimony then in the cause, and such further and other testimony as might be adduced before the Auditor. (R., p. 274.)

After further testimony, the Auditor filed his report on May 20, 1887. (R., p. 297.)

To this report the appellant, on June 28, 1887, filed exceptions. (R., p. 648.)

The cause came on for final hearing in the special term, on the exceptions mentioned, and, on its merits, before Mr. Justice Merrick, who passed a decree therein November 18, 1887, wherein it was provided as follows:

> 1st. The exceptions to the Auditor's report were overruled, and said report, except as modified, confirmed.
>
> 2d. The sum of $52,097.37 was declared a *first* and *prior* lien in favor of the insurance company on all of the unsold property mentioned in the bill, under the deed of trust from Hooper to Smith of Nov. 1, 1881, subject to future accounting as to interest accruing subsequent to September 1, 1886, and *also subject* to a credit, as between Balloch and the company, of $2,029.82, as of February 1, 1882.
>
> 3d. The sum of $1,550.43, with interest thereon from December 21, 1881, due from the complainant to Hooper, was declared and held to be a *second* lien on all of said unsold property.
>
> 4th. The deed of conveyance from the complainant to Hooper of February 25, 1880, *as between them*, was held and declared null and void.

5th. The complainant was required to pay to the defendants the costs of the suit; and all other relief, whether to the complainant or to any of the respondents, except as therein set forth, was refused and denied. (R., p. 654.)

From this decree all of the parties appealed to the court in General Term, where, after argument, and an opinion by Justice James (R., p. 658; 6 Mackey, 421), a decree was passed, May 29, 1888, affirming the decree of the special term. (R., p. 661.)

From this decree said Balloch appealed to this court.

Subsequently, said William R. Hooper, one of the appellees, departed this life, and Franklin H. Hooper, the executor of his will, now appears in his stead.

ARGUMENT.

All the matters of dispute in this case might have been avoided, if the appellant, who is seeking relief in a court of equity, had placed himself in an equitable position before bringing suit.

If he had paid back to the appellees the money borrowed by him, and necessarily expended by them on the said property, they would gladly have reconveyed the real estate to him, waiving all questions as to his legal right to demand an accounting or a return of such property.

There appears to have been a theory in the mind of the complainant's counsel in framing the bill, that certain moneys had been already received by the defendants from sales made, in which complainant had a partnership interest; that no obligation whatever rested on complainant; and that defendants were fraudulently conspiring together to prevent him from obtaining the money then justly due to him. (Paragraphs 11 to 14, p. 5.)

This theory is not supported by the facts as found by the Auditor from the proofs in the case. (*See Schedule* "K," p. 311.)

On these facts, as thus fully shown, the bill, if it states anything on which a court of equity can act, must be construed as a bill to redeem; and, considered in that light,

we call attention to the state of the account between the complainant and the defendant company, on the day said Balloch conveyed all his title in said property to said Hooper, as shown by Schedules F and G, pp. 308-9.

Then Balloch owed the company $43,510, besides interest, and the total value of the property conveyed was $43,229.63. If there was to be any margin created for the purpose of a proper security to the company, it must have devolved on Mr. Hooper to create it by completion of the houses and a judicious sale.

It is true, as shown in Schedule F, p. 309, that Mr. Hooper then retained $7,827.26, all of which, and more too, he paid to take up incumbrances, etc., then on said property, and which had not been deducted in the said estimated value of said property; so that the alleged trust on which Hooper took the title, was created at a time when Balloch's indebtedness exceeded the value of the property conveyed; and yet Balloch makes no effort, and no offer or tender, to repay this money when he seeks to regain his title to the property.

His equity in the property when he conveyed it absolutely to Hooper was worth nothing; and he has not paid a dollar, or done an hour's work since, to acquire any interest in it.

A court of equity will decline to lend its aid to a suitor in a case like this, except upon condition that complainant pay the amount of his debt; and it is essential that a tender or offer to pay the amount found due be made by the bill.

Jones on Mortg., Vol. 2, Sec. 1095.
Smith *v.* Conner, 65 Ala., 371.
Fry *v.* Russell, 35 Mich., 229.

In another way the complainant might have saved himself and the defendants from the dilemma in which this case places them, and that is, by stating in a few words, in the deed to Hooper, the trusts on which it is alleged Hooper accepted the title.

Such a declaration in the chain of title would have put subsequent encumbrancers and purchasers on notice, and would have placed complainant in a more favorable light.

In this case, complainant expressly conveyed away all his title, and parted with his possession, to Mr. Hooper in his individual capacity; and nearly two years later the defendant company, on ascertaining the condition of affairs, in good faith, and without notice or knowledge of any claim by Balloch, released the deeds of trust given by Balloch, and received a trust from Hooper, as the absolute owner and possessor af said property, and advanced large sums of money to complete the improvements.

The relations existing between Balloch and Hooper did not prohibit their contracting between themselves concerning the property, or prevent the latter taking an absolute conveyance thereof from the former at the time of its execution, although the decree declares that deed void as between them.

No fiduciary agency or relation then existed between them *in respect of the property* included in the deed.

The fact that Hooper is the grantee in the trust deeds to secure the company's loans to the complainant does not prevent him from taking a conveyance from the latter of his equity of redemption.

Under these trust deeds, the possession and use of the property is expressly reserved to the complainant; there is no duty, or obligation, or right thereby confided to Hooper to do more than two things, namely, to release on payment of the debts secured, and to sell the property on default. Hooper had nothing to do, as trustee, which required any personal intercourse with the complainant, and in all that he had to do as trustee, his duty was so merely ministerial and so clearly defined, that he could do the complainant no harm whatever.

McPherson *v.* Cox, 96 U. S., 404.

A mortgagee may buy directly from the mortgagor.

Jones, Mortgages, Vol. 1, Sec. 711, and notes.
Russell *v.* Southard, 12 How., 139.
Ten Eyck *v.* Craig, 62 N. Y., 406.

The position occupied by the defendant company from the start is that of a creditor—a lender of money on supposed security—and not that of an owner of property.

In this business of loaning money, the company had no agent. The applications were received and passed upon by the officers of the company at the home office, (pp. 20, 21.) Mr. Hooper, at Mr. Balloch's request, forwarded his application for loan to the company, assisted in having papers arranged to close the matter, and did what he could to assist in obtaining the money, for which Mr. Balloch paid him a commission.

Some months after the $16,000 loan was made, Mr. Hooper found out that Terry (who was Balloch's agent and manager) had played a trick on him, by means of a false plat. He represented that the loan was to be made on the north 8 houses, which were under roof, when as matter of fact, by means of said false plat, the loan was actually secured on the south 8 lots, 4 or 5 of which had no houses begun on them, and were all subject to the mortgage to secure Adams the purchase money. (See pp. 13, 203; also plats on pp. 159 and 186.)

This discovery naturally made Hooper feel uneasy about the matter, for he knew the company did not intend to loan the money on vacant ground; and when he found that Terry, who was the active party in building, had been lodged in jail for an indefinite time, and that Balloch was not getting along satisfactorily with the work, he was still more uneasy. When Balloch finally wished to surrender, and to be relieved of all further responsibility by conveying the property to him, Mr. Hooper thought he could see a way to save the company from loss, on account of a very bad loan, for which he felt that he might be blamed, and so he took the deed, that the security might ultimately be made good.

The decree herein fixed the amount due the defendant company under the deed of trust of November 1, 1881, at $50,067.55, with interest from Sept. 1, 1886; and the amount due defendant Hooper, made a second incumbrance on all said property, is $1,550.43, with interest from December 21, 1881 (p. 654).

The defendants, by failing to docket their appeal in this court, accept this decree as satisfactory, notwithstanding the grave question of law as to the right of Balloch to prove a trust and contract with Hooper in the face of his absolute deed, or to affect the company by Mr. Hooper's alleged agency.

This money the court says, in effect, Mr. Balloch must pay, as the terms upon which he may redeem; so that the principal question to be considered here is: Are these terms fair to Balloch, and such as a court of equity ought to insist upon?

The decree also declares the deed from Balloch to Hooper, as between them, null and void. That being out of the case, and no contract established whatever, either between Balloch and Hooper, or Balloch and the company, the proper basis for a decree, is the equitable position which is occupied by the parties. This position is clearly shown by the evidence, to wit:

1st. That the money of the defendants paid for and improved this property; every dollar decreed, actually and bona fide, being paid and applied to make the security valuable; and

2d. The money remains due and unpaid.

The evidence shows clearly that Balloch never paid a dollar, in interest or principal, on account of the loans made to him, except the amounts retained from other loans (p. 212).

It also shows that after he abandoned his property, he stood by and saw the houses remaining in an unfinished condition for many months, and knew his trusts were released, and that Hooper's deed of trust of Nov. 1, 1881, was on record; and knew the manner of improvements then made, the changes in plans, and the actual cash outlay, and never made any objection or suggestion, or gave any notice to the company whatever that he claimed any interest in said property.

Nearly three years after this abandonment and silence, during which time he knew money was being, in good

faith, paid out on this property, Balloch suddenly wakes up and thinks he discovers money in the enterprise that belongs to him, and files this bill to obtain it.

If he is not absolutely barred, in equity and good conscience, from any standing in court whatever, after his conveyance, inaction, laches, and the imposition practiced by his agent, Terry, by means of the said false statement and plat, he is certainly estopped from stretching forth his hand, and taking possession of this property, until he shall in some way restore every dollar invested in it by the defendants.

He is not willing to do this. He wants this court to say, that because there were so-called *estimates* made, based on the original contracts with builders employed by him, that the houses could have been finished immediately after his deed to Hooper for $8,393.35, that the defendant company shall not be allowed to *loan* more than that sum on said property, in addition to the moneys already secured on it. In other words, that although it *actually* cost over $20,000 to complete the buildings, as shown in Schedule H (p. 310) *he* should be allowed to receive all that accretion of over $20,000, and the defendant have credit for only the $8,000 estimated.

Schedule N (p. 313) shows that defendants paid the encumbrances that were on said property February 25, 1880, amounting to $59,140.31, besides interest, in addition to the cost of finishing the houses.

The money actually paid by the defendant Hooper shows his good faith in the enterprise, as he not only paid out all moneys retained from the Balloch loans, and all moneys subsequently borrowed by himself from the company, but paid out of his own funds derived otherwise, $1,550.43 which is still due his estate, with interest from Dec. 21, 1881.

In addition to this, he became personally liable on his note to the company for $71,000, all of which is still due said company from his estate, except so much as has been paid by sales of portions of the property, and the rents re-

ceived from other portions. Was it not for his interest, more than Balloch's, that the improvements be made in the most economical manner consistent with good work?

We ask the court to read and consider carefully the Auditor's report, beginning on page 297, and the schedules annexed, in ascertaining the relative equitable position of the parties here. Also, the deposition of Mr. Edgerly, president of the company, on page 291, with the complete statement of the account annexed, kept by the company, to Sept. 1, 1886.

The thorough system of book-keeping, competent clerks, and efficient management of a corporation of the established character of the defendant company, insures the absolute correctness of all the details of this account.

There is no evidence whatever to impeach its accuracy, and the Auditor has properly made it the basis of his report, as shown in Schedule L, page 311.

Notwithstanding this, the court, willing to give Balloch the benefit of any doubt, disallowed the amount paid F. H. Smith & Son, for services in superintending the completion of the houses, $2,029.82; and for this sum the company has no security other than its claim against Mr. Hooper's estate.

The appellant undertakes to hold the defendant company responsible for the delay in completing the houses; but such a claim comes with bad grace from him, in the light of his absolute conveyance to Hooper, his inattention to the matter, and his utter silence toward the company. The only effort he makes to support any such claim in a court of equity, is the alleged *constructive* notice through Hooper, when in fact, as shown by the undisputed testimony, the company *actually* knew nothing about the deed to him, or any agreement on his part to complete the buildings, until October, 1881 (pp. 20, 210, 436).

Even such constructive notice as claimed does not avail the appellant in this case, for notice to an agent cannot in any manner bind the principal, except when acquired by

such agent in the transaction in which he is employed by the principal.

1 Jones on Mortgages, Sec. 586.

The notice must be of some matter material to the transaction, and which it is the duty of the agent to make known to the principal.

Id., Sec. 587.

Whenever the agent becomes the party interested, "the contrivor, the actor, and gainer by the transaction," the reason for charging the principal as if he had notice no longer exists.

Id., Sec. 589.

Wilson *v.* Wall, 6 Wall., 90, 91.

Williams *v.* Jackson, 107 U. S., 483, 484.

If the equity of complainant and defendant were only equal, the legal title held by Smith for the company would prevail, and entitle the company to priority.

Williams *v.* Jackson, supra.

The company never employed Hooper to buy this property from Balloch; he never was agent for any such purpose; he took the deed in his own name, and for his own purpose, expecting to be able to at least fully secure the company for the moneys loaned, and thereafter, if any margin was left, to have the benefit of that for himself.

The company could not be constructively notified of the transaction by the recording of the deed, as it had no occasion to have the records examined, or search continued, until it proposed to release, Nov. 1, 1881; and the record legal title was at that time in the trustee, under Balloch's trusts to secure his debt.

Appellant's counsel, on page 72 of his brief, endeavors to prove a *conspiracy*, by an attempt to show that the deed of trust and release of Nov. 1, 1881, were *fraudulently* withheld from record. He mistakes the facts in this "most

significant" showing, for although both papers were dated Nov. 1, 1881, the trust was not acknowledged until Jan. 6, 1882, and the release was not acknowledged until March 10, 1882. (R., p. 196, and Supplemental Record, p.)

The only effort complainant makes to dispute the correctness of Schedule L, is by the twenty-fourth exception, p. 652, which is a general exception, and is not allowable under any rules of equity practice, as it points out no particular defect in the report.

Alexander's Chancery Pr., 127.
2 Daniel's Ch. Pr., 1320, note 2.
Holcomb *v.* Holcomb, 3 Stockt. (N. J.), 281.

The same rule will dispose of most of the twenty-six exceptions taken; and in case where they are not open to this objection, a careful consideration of the testimony will, in every instance, show that the Auditor's conclusions are well founded.

It is proper to say that the Auditor in this case is not unknown to this court; that he is a lawyer of high standing and great industry; that he has had long experience in matters of stating accounts of this character, and in analyzing and weighing evidence; that a number of the witnesses were present before him, where they were examined and cross-examined; that he has heard them testify, and observed their manner; and that the depositions previously taken in the case have been carefully considered by him, and he has heard arguments of counsel at length on each side of every point; and after such hearing and consideration, he has stated the account as shown in his report (p. 297).

The exceptions to this report have been argued before the late Justice Merrick, at special term, and before Chief Justice Bingham and Justices Cox and James, in General Term; and after thorough consideration, the findings of the

Auditor as to the moneys of the defendant company invested in this property have been affirmed.

See 6 Mackey, 421.

In this respect, we submit that a very clear showing of error must be made, before this court should be called upon to read the voluminous record in detail, and weigh this conflicting testimony, for the purpose of finding out what the appellant ought, in equity and good conscience, to be charged with, as a condition on which he may regain a title which he voluntarily and absolutely conveyed away.

We submit that the decree of the Supreme Court of the District of Columbia should be affirmed, with costs, as being the most liberal to the appellant that could be given under the facts and the law.

JAMES S. EDWARDS,
JOB BARNARD,
Solicitors for Appellees.